

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 519

Introduced by Assembly Member McCarty

February 23, 2015

~~An act to amend Section 202 of the Welfare and Institutions Code, relating to juveniles.~~ *An act to amend Sections 361.2, 361.3, 361.5, 366, 366.21, 366.22, 366.25, 366.26, 366.27, 366.3, 706.5, 706.6, 727.2, 727.3, 11400, and 16501.1 of, and to add Sections 371, 372, and 727.45 to, the Welfare and Institutions Code, relating to foster youth.*

LEGISLATIVE COUNSEL'S DIGEST

AB 519, as amended, McCarty. ~~Juveniles.~~ *Foster youth: permanency.* Existing law provides that a minor may be removed from the physical custody of his or her parents if there is a substantial danger to the physical health of the child or the child is suffering severe emotional damage and there are no reasonable means to protect the child without removing him or her. Additionally, a minor who is in wardship proceedings may be removed from the physical custody of his or her parents if the court finds that one of several facts is present, including that the parent or guardian is incapable of providing or has failed to provide proper maintenance, training, and education for the minor. When a minor is removed from the physical custody of his or her parents in dependency or wardship proceedings, existing law generally requires that reunification services be provided to a minor and his or her family. Existing law also provides for periodic status review hearings, at which the court must return a minor to the physical custody of his or her parents unless the court makes specified findings. Existing law requires, if a minor is not returned to the physical custody of his or her parents,

the juvenile court to devise a permanency plan, including, among others, an order that the child be placed for adoption, an order that a legal guardian be appointed, or an order that the child remain in another planned permanent living arrangement or long-term foster care. Existing law requires, prior to ordering a dependent child to remain in another planned permanent living arrangement or long-term foster care as his or her permanency plan, the court to make a finding that the child is not a proper subject for adoption and has no one willing to accept legal guardianship.

This bill would generally delete references to “long-term foster care” and, instead, refer to that permanency plan as “another planned permanent living arrangement” and would establish a new permanency plan option of placement with a fit and willing relative. The bill would prohibit a child under 16 years of age from having as his or her permanency plan continued placement in another planned permanent living arrangement and would require a child 16 years of age or older to be receiving specialized permanency services in order to continue in another planned permanent living arrangement. The bill would require for any child who has as his or her permanency plan another planned permanent living arrangement, and would authorize for children under 16 years of age and in an out-of-home placement, the placing agency to, among other things, conduct intensive and ongoing efforts to return the child home or secure a placement for the child with a fit and willing relative, a legal guardian, or an adoptive parent. The bill would also require for any child who has as his or her permanency plan another planned permanent living arrangement, and would authorize for children under 16 years of age and in an out-of-home placement, the court, at each permanency hearing to, among other things, review the intensive, ongoing, and, as of the date of the hearing, unsuccessful efforts made by the placing agency to return the child home or secure a placement for the child with a fit and willing relative, a legal guardian, or an adoptive parent and to redetermine the appropriateness of placement. The bill would require, prior to a child being deemed not a proper subject for adoption or as having no one willing to accept legal guardianship, the child to receive specialized permanency services. The bill would also require, commencing January 1, 2017, in any case in which the court has ordered a dependent child or a ward of the juvenile court placed for adoption or has appointed a relative or nonrelative legal guardian, the social worker or probation officer to provide the prospective adoptive family or the guardian or

guardians specified mental health treatment information. By expanding the duties of social workers and probation officers with regard to the provision of child welfare services, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

~~The Arnold-Kennick Juvenile Court Law establishes the jurisdiction of the juvenile court, which may adjudge a minor to be a dependent or ward of the court if the minor has been abused or neglected, or if the minor has violated a law or ordinance, respectively. Existing law requires that minors under the jurisdiction of the juvenile court as a consequence of delinquent conduct receive care, treatment, and guidance that is consistent with their best interests, that holds them accountable for their behavior, and that is appropriate for their circumstances.~~

~~This bill would make technical, nonsubstantive changes to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 *SECTION 1. (a) The Legislature finds and declares all of the*
- 2 *following:*
- 3 *(1) As of September 30, 2014, there were 62,545 California*
- 4 *children living in the foster care system, with 16,561 children, or*
- 5 *approximately 26 percent, in foster care for over three years, and*
- 6 *9,780 children, or approximately 16 percent, in care for over five*
- 7 *years. Adult outcomes are often poor for the children who*
- 8 *emancipate from foster care without a permanent family. Within*
- 9 *two years of exiting the foster care system, approximately 50*
- 10 *percent of former foster youth will be homeless, in prison,*
- 11 *victimized, or dead.*
- 12 *(2) Families committing to adoption or guardianship of children*
- 13 *in foster care may face challenges unique to the adoption or*
- 14 *guardianship experience that result from the trauma of the child's*
- 15 *adverse childhood experiences. These challenges can create stress*

1 *that puts the adoption or guardianship at risk of disruption and*
2 *potentially result in the child's reentry into the foster care system.*

3 *(3) Provisions of the Preventing Sex Trafficking and*
4 *Strengthening Families Act (Public Law 113-183) address the*
5 *need to enhance efforts to improve permanency outcomes for older*
6 *children in care by eliminating the use of other planned permanent*
7 *living arrangements as a permanent plan for children under 16*
8 *years of age.*

9 *(4) The new law also requires documentation of intensive and*
10 *ongoing efforts to achieve permanence for youth with a case plan*
11 *for another planned permanent living arrangement, and adds*
12 *additional case plan and case plan review system requirements*
13 *for children 16 years of age and older.*

14 *(b) It is the intent of the Legislature in enacting this act to*
15 *improve permanency outcomes and stability for older children in*
16 *foster care and to bring California into compliance with provisions*
17 *of the Preventing Sex Trafficking and Strengthening Families Act*
18 *by doing all of the following:*

19 *(1) Providing resources and incentives to counties to improve*
20 *permanency outcomes for older children and youth in foster care*
21 *by updating current California law to require that any federal*
22 *adoption incentives received be used for that purpose.*

23 *(2) Improving the stability of adoptive and guardianship families*
24 *by requiring the State Department of Social Services, county*
25 *adoption agencies, county child welfare agencies, and licensed*
26 *adoption agencies to provide potential adoptive families and*
27 *guardians information, in writing, regarding the importance of*
28 *working with mental health providers that have specialized*
29 *adoption or permanency clinical training and experience if the*
30 *family needs clinical support and the desirable clinical expertise*
31 *the family should look for when choosing an adoption- or*
32 *permanency-competent mental health professional.*

33 *(3) Improving permanency outcomes for children in foster care*
34 *by doing all of the following:*

35 *(A) Requiring child-centered specialized permanency services*
36 *prior to deeming a child "unlikely to be adopted," "not a proper*
37 *subject for adoption," or "having no one willing to take legal*
38 *guardianship," and prior to, and after, making a permanency plan*
39 *for another planned permanent living arrangement or ordering a*
40 *child into long-term foster care.*

1 (B) *Eliminating the use of another planned permanent living*
2 *arrangements as permanency plans for children under 16 years*
3 *of age.*

4 (C) *Adding “placement with a fit and willing relative” as a*
5 *permanency planning option.*

6 SEC. 2. *Section 361.2 of the Welfare and Institutions Code is*
7 *amended to read:*

8 361.2. (a) When a court orders removal of a child pursuant to
9 Section 361, the court shall first determine whether there is a parent
10 of the child, with whom the child was not residing at the time that
11 the events or conditions arose that brought the child within the
12 provisions of Section 300, who desires to assume custody of the
13 child. If that parent requests custody, the court shall place the child
14 with the parent unless it finds that placement with that parent would
15 be detrimental to the safety, protection, or physical or emotional
16 well-being of the child. The fact that the parent is enrolled in a
17 certified substance abuse treatment facility that allows a dependent
18 child to reside with his or her parent shall not be, for that reason
19 alone, prima facie evidence that placement with that parent would
20 be detrimental.

21 (b) If the court places the child with that parent it may do any
22 of the following:

23 (1) Order that the parent become legal and physical custodian
24 of the child. The court may also provide reasonable visitation by
25 the noncustodial parent. The court shall then terminate its
26 jurisdiction over the child. The custody order shall continue unless
27 modified by a subsequent order of the superior court. The order
28 of the juvenile court shall be filed in any domestic relation
29 proceeding between the parents.

30 (2) Order that the parent assume custody subject to the
31 jurisdiction of the juvenile court and require that a home visit be
32 conducted within three months. In determining whether to take
33 the action described in this paragraph, the court shall consider any
34 concerns that have been raised by the child’s current caregiver
35 regarding the parent. After the social worker conducts the home
36 visit and files his or her report with the court, the court may then
37 take the action described in paragraph (1), (3), or this paragraph.
38 However, nothing in this paragraph shall be interpreted to imply
39 that the court is required to take the action described in this

1 paragraph as a prerequisite to the court taking the action described
2 in either paragraph (1) or (3).

3 (3) Order that the parent assume custody subject to the
4 supervision of the juvenile court. In that case the court may order
5 that reunification services be provided to the parent or guardian
6 from whom the child is being removed, or the court may order that
7 services be provided solely to the parent who is assuming physical
8 custody in order to allow that parent to retain later custody without
9 court supervision, or that services be provided to both parents, in
10 which case the court shall determine, at review hearings held
11 pursuant to Section 366, which parent, if either, shall have custody
12 of the child.

13 (c) The court shall make a finding either in writing or on the
14 record of the basis for its determination under subdivisions (a) and
15 (b).

16 (d) Part 6 (commencing with Section 7950) of Division 12 of
17 the Family Code shall apply to the placement of a child pursuant
18 to paragraphs (1) and (2) of subdivision (e).

19 (e) When the court orders removal pursuant to Section 361, the
20 court shall order the care, custody, control, and conduct of the
21 child to be under the supervision of the social worker who may
22 place the child in any of the following:

23 (1) The home of a noncustodial parent as described in
24 subdivision (a), regardless of the parent's immigration status.

25 (2) The approved home of a relative, regardless of the relative's
26 immigration status.

27 (3) The approved home of a nonrelative extended family
28 member as defined in Section 362.7.

29 (4) The approved home of a resource family as defined in
30 Section 16519.5.

31 (5) A foster home in which the child has been placed before an
32 interruption in foster care, if that placement is in the best interest
33 of the child and space is available.

34 (6) A suitable licensed community care facility, except a
35 runaway and homeless youth shelter licensed by the State
36 Department of Social Services pursuant to Section 1502.35 of the
37 Health and Safety Code.

38 (7) With a foster family agency to be placed in a suitable
39 licensed foster family home or certified family home which has
40 been certified by the agency as meeting licensing standards.

1 (8) A home or facility in accordance with the federal Indian
2 Child Welfare Act (25 U.S.C. Sec. 1901 et seq.).

3 (9) A child under six years of age may be placed in a community
4 care facility licensed as a group home for children, or a temporary
5 shelter care facility as defined in Section 1530.8 of the Health and
6 Safety Code, only under any of the following circumstances:

7 (A) (i) When a case plan indicates that placement is for purposes
8 of providing short term, specialized, and intensive treatment to the
9 child, the case plan specifies the need for, nature of, and anticipated
10 duration of this treatment, pursuant to paragraph (2) of subdivision
11 (c) of Section 16501.1, the facility meets the applicable regulations
12 adopted under Section 1530.8 of the Health and Safety Code and
13 standards developed pursuant to Section 11467.1 of this code, and
14 the deputy director or director of the county child welfare
15 department or an assistant chief probation officer or chief probation
16 officer of the county probation department has approved the case
17 plan.

18 (ii) The short term, specialized, and intensive treatment period
19 shall not exceed 120 days, unless the county has made progress
20 toward or is actively working toward implementing the case plan
21 that identifies the services or supports necessary to transition the
22 child to a family setting, circumstances beyond the county's control
23 have prevented the county from obtaining those services or
24 supports within the timeline documented in the case plan, and the
25 need for additional time pursuant to the case plan is documented
26 by the caseworker and approved by a deputy director or director
27 of the county child welfare department or an assistant chief
28 probation officer or chief probation officer of the county probation
29 department.

30 (iii) To the extent that placements pursuant to this paragraph
31 are extended beyond an initial 120 days, the requirements of
32 clauses (i) and (ii) shall apply to each extension. In addition, the
33 deputy director or director of the county child welfare department
34 or an assistant chief probation officer or chief probation officer of
35 the county probation department shall approve the continued
36 placement no less frequently than every 60 days.

37 (B) When a case plan indicates that placement is for purposes
38 of providing family reunification services. In addition, the facility
39 offers family reunification services that meet the needs of the
40 individual child and his or her family, permits parents to have

1 reasonable access to their children 24 hours a day, encourages
2 extensive parental involvement in meeting the daily needs of their
3 children, and employs staff trained to provide family reunification
4 services. In addition, one of the following conditions exists:

5 (i) The child's parent is also a ward of the court and resides in
6 the facility.

7 (ii) The child's parent is participating in a treatment program
8 affiliated with the facility and the child's placement in the facility
9 facilitates the coordination and provision of reunification services.

10 (iii) Placement in the facility is the only alternative that permits
11 the parent to have daily 24-hour access to the child in accordance
12 with the case plan, to participate fully in meeting all of the daily
13 needs of the child, including feeding and personal hygiene, and to
14 have access to necessary reunification services.

15 (10) (A) A child who is 6 to 12 years of age, inclusive, may be
16 placed in a community care facility licensed as a group home for
17 children only when a case plan indicates that placement is for
18 purposes of providing short term, specialized, and intensive
19 treatment for the child, the case plan specifies the need for, nature
20 of, and anticipated duration of this treatment, pursuant to paragraph
21 (2) of subdivision (c) of Section 16501.1, and is approved by the
22 deputy director or director of the county child welfare department
23 or an assistant chief probation officer or chief probation officer of
24 the county probation department.

25 (B) The short term, specialized, and intensive treatment period
26 shall not exceed six months, unless the county has made progress
27 or is actively working toward implementing the case plan that
28 identifies the services or supports necessary to transition the child
29 to a family setting, circumstances beyond the county's control
30 have prevented the county from obtaining those services or
31 supports within the timeline documented in the case plan, and the
32 need for additional time pursuant to the case plan is documented
33 by the caseworker and approved by a deputy director or director
34 of the county child welfare department or an assistant chief
35 probation officer or chief probation officer of the county probation
36 department.

37 (C) To the extent that placements pursuant to this paragraph are
38 extended beyond an initial six months, the requirements of
39 subparagraphs (A) and (B) shall apply to each extension. In
40 addition, the deputy director or director of the county child welfare

1 department or an assistant chief probation officer or chief probation
2 officer of the county probation department shall approve the
3 continued placement no less frequently than every 60 days.

4 (11) Nothing in this subdivision shall be construed to allow a
5 social worker to place any dependent child outside the United
6 States, except as specified in subdivision (f).

7 (f) (1) A child under the supervision of a social worker pursuant
8 to subdivision (e) shall not be placed outside the United States
9 prior to a judicial finding that the placement is in the best interest
10 of the child, except as required by federal law or treaty.

11 (2) The party or agency requesting placement of the child outside
12 the United States shall carry the burden of proof and shall show,
13 by clear and convincing evidence, that placement outside the
14 United States is in the best interest of the child.

15 (3) In determining the best interest of the child, the court shall
16 consider, but not be limited to, the following factors:

17 (A) Placement with a relative.

18 (B) Placement of siblings in the same home.

19 (C) Amount and nature of any contact between the child and
20 the potential guardian or caretaker.

21 (D) Physical and medical needs of the dependent child.

22 (E) Psychological and emotional needs of the dependent child.

23 (F) Social, cultural, and educational needs of the dependent
24 child.

25 (G) Specific desires of any dependent child who is 12 years of
26 age or older.

27 (4) If the court finds that a placement outside the United States
28 is, by clear and convincing evidence, in the best interest of the
29 child, the court may issue an order authorizing the social worker
30 to make a placement outside the United States. A child subject to
31 this subdivision shall not leave the United States prior to the
32 issuance of the order described in this paragraph.

33 (5) For purposes of this subdivision, “outside the United States”
34 shall not include the lands of any federally recognized American
35 Indian tribe or Alaskan Natives.

36 (6) This subdivision shall not apply to the placement of a
37 dependent child with a parent pursuant to subdivision (a).

38 (g) (1) If the child is taken from the physical custody of the
39 child’s parent or guardian and unless the child is placed with
40 ~~relatives~~, *relatives or nonrelative extended family members*, the

1 child shall be placed in foster care in the county of residence of
2 the child's parent or guardian in order to facilitate reunification of
3 the family.

4 (2) In the event that there are no appropriate placements
5 available in the parent's or guardian's county of residence, a
6 placement may be made in an appropriate place in another county,
7 preferably a county located adjacent to the parent's or guardian's
8 community of residence.

9 (3) Nothing in this section shall be interpreted as requiring
10 multiple disruptions of the child's placement corresponding to
11 frequent changes of residence by the parent or guardian. In
12 determining whether the child should be moved, the social worker
13 shall take into consideration the potential harmful effects of
14 disrupting the placement of the child and the parent's or guardian's
15 reason for the move.

16 (4) When it has been determined that it is necessary for a child
17 to be placed in a county other than the child's parent's or guardian's
18 county of residence, the specific reason the out-of-county
19 placement is necessary shall be documented in the child's case
20 plan. If the reason the out-of-county placement is necessary is the
21 lack of resources in the sending county to meet the specific needs
22 of the child, those specific resource needs shall be documented in
23 the case plan.

24 (5) When it has been determined that a child is to be placed out
25 of county either in a group home or with a foster family agency
26 for subsequent placement in a certified foster family home, and
27 the sending county is to maintain responsibility for supervision
28 and visitation of the child, the sending county shall develop a plan
29 of supervision and visitation that specifies the supervision and
30 visitation activities to be performed and specifies that the sending
31 county is responsible for performing those activities. In addition
32 to the plan of supervision and visitation, the sending county shall
33 document information regarding any known or suspected dangerous
34 behavior of the child that indicates the child may pose a safety
35 concern in the receiving county. Upon implementation of the Child
36 Welfare Services Case Management System, the plan of
37 supervision and visitation, as well as information regarding any
38 known or suspected dangerous behavior of the child, shall be made
39 available to the receiving county upon placement of the child in
40 the receiving county. If placement occurs on a weekend or holiday,

1 the information shall be made available to the receiving county on
2 or before the end of the next business day.

3 (6) When it has been determined that a child is to be placed out
4 of county and the sending county plans that the receiving county
5 shall be responsible for the supervision and visitation of the child,
6 the sending county shall develop a formal agreement between the
7 sending and receiving counties. The formal agreement shall specify
8 the supervision and visitation to be provided the child, and shall
9 specify that the receiving county is responsible for providing the
10 supervision and visitation. The formal agreement shall be approved
11 and signed by the sending and receiving counties prior to placement
12 of the child in the receiving county. In addition, upon completion
13 of the case plan, the sending county shall provide a copy of the
14 completed case plan to the receiving county. The case plan shall
15 include information regarding any known or suspected dangerous
16 behavior of the child that indicates the child may pose a safety
17 concern to the receiving county.

18 (h) Whenever the social worker must change the placement of
19 the child and is unable to find a suitable placement within the
20 county and must place the child outside the county, the placement
21 shall not be made until he or she has served written notice on the
22 parent or guardian at least 14 days prior to the placement, unless
23 the child's health or well-being is endangered by delaying the
24 action or would be endangered if prior notice were given. The
25 notice shall state the reasons which require placement outside the
26 county. The parent or guardian may object to the placement not
27 later than seven days after receipt of the notice and, upon objection,
28 the court shall hold a hearing not later than five days after the
29 objection and prior to the placement. The court shall order
30 out-of-county placement if it finds that the child's particular needs
31 require placement outside the county.

32 (i) ~~Where~~ When the court has ordered removal of the child from
33 the physical custody of his or her parents pursuant to Section 361,
34 the court shall consider whether the family ties and best interest
35 of the child will be served by granting visitation rights to the child's
36 grandparents. The court shall clearly specify those rights to the
37 social worker.

38 (j) ~~Where~~ When the court has ordered removal of the child from
39 the physical custody of his or her parents pursuant to Section 361,
40 the court shall consider whether there are any siblings under the

1 court's jurisdiction, or any nondependent siblings in the physical
2 custody of a parent subject to the court's jurisdiction, the nature
3 of the relationship between the child and his or her siblings, the
4 appropriateness of developing or maintaining the sibling
5 relationships pursuant to Section 16002, and the impact of the
6 sibling relationships on the child's placement and planning for
7 legal permanence.

8 (k) (1) An agency shall ensure placement of a child in a home
9 that, to the fullest extent possible, best meets the day-to-day needs
10 of the child. A home that best meets the day-to-day needs of the
11 child shall satisfy all of the following criteria:

12 (A) The child's caregiver is able to meet the day-to-day health,
13 safety, and well-being needs of the child.

14 (B) The child's caregiver is permitted to maintain the least
15 restrictive and most family-like environment that serves the
16 day-to-day needs of the child.

17 (C) The child is permitted to engage in reasonable,
18 age-appropriate day-to-day activities that promote the most
19 family-like environment for the foster child.

20 (2) The foster child's caregiver shall use a reasonable and
21 prudent parent standard, as defined in paragraph (2) of subdivision
22 (a) of Section 362.04, to determine day-to-day activities that are
23 age appropriate to meet the needs of the child. Nothing in this
24 section shall be construed to permit a child's caregiver to permit
25 the child to engage in day-to-day activities that carry an
26 unreasonable risk of harm, or subject the child to abuse or neglect.

27 *SEC. 3. Section 361.3 of the Welfare and Institutions Code is*
28 *amended to read:*

29 361.3. (a) In any case in which a child is removed from the
30 physical custody of his or her parents pursuant to Section 361,
31 preferential consideration shall be given to a request by a relative
32 of the child for placement of the child with the relative, regardless
33 of the relative's immigration status. In determining whether
34 placement with a relative is appropriate, the county social worker
35 and court shall consider, but shall not be limited to, consideration
36 of all the following factors:

37 (1) The best interest of the child, including special physical,
38 psychological, educational, medical, or emotional needs.

39 (2) The wishes of the parent, the relative, and child, if
40 appropriate.

(3) The provisions of Part 6 (commencing with Section 7950) of Division 12 of the Family Code regarding relative placement.

(4) Placement of siblings and half siblings in the same home, unless that placement is found to be contrary to the safety and well-being of any of the siblings, as provided in Section 16002.

(5) The good moral character of the relative and any other adult living in the home, including whether any individual residing in the home has a prior history of violent criminal acts or has been responsible for acts of child abuse or neglect.

(6) ~~The nature and duration of the relationship between the child and the relative,~~ and the relative's desire to care for, and to provide legal permanency for, the child if reunification is unsuccessful.

(7) The ability of the relative to do the following:

(A) Provide a safe, secure, and stable environment for the child.

(B) Exercise proper and effective care and control of the child.

(C) Provide a home and the necessities of life for the child.

(D) Protect the child from his or her parents.

(E) Facilitate court-ordered reunification efforts with the parents.

(F) Facilitate visitation with the child's other relatives.

(G) Facilitate implementation of all elements of the case plan.

(H) Provide legal permanence for the child if reunification fails.

However, any finding made with respect to the factor considered pursuant to this subparagraph and pursuant to subparagraph (G) shall not be the sole basis for precluding preferential placement with a relative.

(I) Arrange for appropriate and safe child care, as necessary.

(8) The safety of the relative's home. For a relative to be considered appropriate to receive placement of a child under this section, the relative's home shall first be approved pursuant to the process and standards described in subdivision (d) of Section 309.

In this regard, the Legislature declares that a physical disability, such as blindness or deafness, is no bar to the raising of children, and a county social worker's determination as to the ability of a disabled relative to exercise care and control should center upon whether the relative's disability prevents him or her from exercising care and control. The court shall order the parent to disclose to the county social worker the names, residences, and any other known identifying information of any maternal or paternal relatives of the child. This inquiry shall not be construed, however, to guarantee that the child will be placed with any person so identified. The

1 county social worker shall initially contact the relatives given
2 preferential consideration for placement to determine if they desire
3 the child to be placed with them. Those desiring placement shall
4 be assessed according to the factors enumerated in this subdivision.
5 The county social worker shall document these efforts in the social
6 study prepared pursuant to Section 358.1. The court shall authorize
7 the county social worker, while assessing these relatives for the
8 possibility of placement, to disclose to the relative, as appropriate,
9 the fact that the child is in custody, the alleged reasons for the
10 custody, and the projected likely date for the child's return home
11 or placement for adoption or legal guardianship. However, this
12 investigation shall not be construed as good cause for continuance
13 of the dispositional hearing conducted pursuant to Section 358.

14 (b) In any case in which more than one appropriate relative
15 requests preferential consideration pursuant to this section, each
16 relative shall be considered under the factors enumerated in
17 subdivision (a). Consistent with the legislative intent for children
18 to be placed immediately with a responsible relative, this section
19 does not limit the county social worker's ability to place a child
20 in the home of an appropriate relative or a nonrelative extended
21 family member pending the consideration of other relatives who
22 have requested preferential consideration.

23 (c) For purposes of this section:

24 (1) "Preferential consideration" means that the relative seeking
25 placement shall be the first placement to be considered and
26 investigated.

27 (2) "Relative" means an adult who is related to the child by
28 blood, adoption, or affinity within the fifth degree of kinship,
29 including stepparents, stepsiblings, and all relatives whose status
30 is preceded by the words "great," "great-great," or "grand," or the
31 spouse of any of these persons even if the marriage was terminated
32 by death or dissolution. However, only the following relatives
33 shall be given preferential consideration for the placement of the
34 child: an adult who is a grandparent, aunt, uncle, or sibling.

35 (d) Subsequent to the hearing conducted pursuant to Section
36 358, whenever a new placement of the child must be made,
37 consideration for placement shall again be given as described in
38 this section to relatives who have not been found to be unsuitable
39 and who will fulfill the child's reunification or permanent plan
40 requirements. ~~In addition to the factors described in subdivision~~

1 ~~(a), the county social worker shall consider whether the relative~~
2 ~~has established and maintained a relationship with the child.~~

3 (e) If the court does not place the child with a relative who has
4 been considered for placement pursuant to this section, the court
5 shall state for the record the reasons placement with that relative
6 was denied.

7 (f) (1) With respect to a child who satisfies the criteria set forth
8 in paragraph (2), the department and any licensed adoption agency
9 may search for a relative and furnish identifying information
10 relating to the child to that relative if it is believed the child's
11 welfare will be promoted thereby.

12 (2) Paragraph (1) shall apply if both of the following conditions
13 are satisfied:

14 (A) The child was previously a dependent of the court.

15 (B) The child was previously adopted and the adoption has been
16 disrupted, set aside pursuant to Section 9100 or 9102 of the Family
17 Code, or the child has been released into the custody of the
18 department or a licensed adoption agency by the adoptive parent
19 or parents.

20 (3) As used in this subdivision, "relative" includes a member
21 of the child's birth family and nonrelated extended family
22 members, regardless of whether the parental rights were terminated,
23 provided that both of the following are true:

24 (A) No appropriate potential caretaker is known to exist from
25 the child's adoptive family, including nonrelated extended family
26 members of the adoptive family.

27 (B) The child was not the subject of a voluntary relinquishment
28 by the birth parents pursuant to Section 8700 of the Family Code
29 or Section 1255.7 of the Health and Safety Code.

30 *SEC. 4. Section 361.5 of the Welfare and Institutions Code is*
31 *amended to read:*

32 361.5. (a) Except as provided in subdivision (b), or when the
33 parent has voluntarily relinquished the child and the relinquishment
34 has been filed with the State Department of Social Services, or
35 upon the establishment of an order of guardianship pursuant to
36 Section 360, or when a court adjudicates a petition under Section
37 329 to modify the court's jurisdiction from delinquency jurisdiction
38 to dependency jurisdiction pursuant to subparagraph (A) of
39 paragraph (2) of subdivision (b) of Section 607.2 and the parents
40 or guardian of the ward have had reunification services terminated

1 under the delinquency jurisdiction, whenever a child is removed
2 from a parent's or guardian's custody, the juvenile court shall order
3 the social worker to provide child welfare services to the child and
4 the child's mother and statutorily presumed father or guardians.
5 Upon a finding and declaration of paternity by the juvenile court
6 or proof of a prior declaration of paternity by any court of
7 competent jurisdiction, the juvenile court may order services for
8 the child and the biological father, if the court determines that the
9 services will benefit the child.

10 (1) Family reunification services, when provided, shall be
11 provided as follows:

12 (A) Except as otherwise provided in subparagraph (C), for a
13 child who, on the date of initial removal from the physical custody
14 of his or her parent or guardian, was three years of age or older,
15 court-ordered services shall be provided beginning with the
16 dispositional hearing and ending 12 months after the date the child
17 entered foster care as provided in Section 361.49, unless the child
18 is returned to the home of the parent or guardian.

19 (B) For a child who, on the date of initial removal from the
20 physical custody of his or her parent or guardian, was under three
21 years of age, court-ordered services shall be provided for a period
22 of six months from the dispositional hearing as provided in
23 subdivision (e) of Section 366.21, but no longer than 12 months
24 from the date the child entered foster care as provided in Section
25 361.49 unless the child is returned to the home of the parent or
26 guardian.

27 (C) For the purpose of placing and maintaining a sibling group
28 together in a permanent home should reunification efforts fail, for
29 a child in a sibling group whose members were removed from
30 parental custody at the same time, and in which one member of
31 the sibling group was under three years of age on the date of initial
32 removal from the physical custody of his or her parent or guardian,
33 court-ordered services for some or all of the sibling group may be
34 limited as set forth in subparagraph (B). For the purposes of this
35 paragraph, "a sibling group" shall mean two or more children who
36 are related to each other as full or half siblings.

37 (2) Any motion to terminate court-ordered reunification services
38 prior to the hearing set pursuant to subdivision (f) of Section 366.21
39 for a child described by subparagraph (A) of paragraph (1), or
40 prior to the hearing set pursuant to subdivision (e) of Section

1 366.21 for a child described by subparagraph (B) or (C) of
2 paragraph (1), shall be made pursuant to the requirements set forth
3 in subdivision (c) of Section 388. A motion to terminate
4 court-ordered reunification services shall not be required at the
5 hearing set pursuant to subdivision (e) of Section 366.21 if the
6 court finds by clear and convincing evidence one of the following:

7 (A) That the child was removed initially under subdivision (g)
8 of Section 300 and the whereabouts of the parent are still unknown.

9 (B) That the parent has failed to contact and visit the child.

10 (C) That the parent has been convicted of a felony indicating
11 parental unfitness.

12 (3) Notwithstanding subparagraphs (A), (B), and (C) of
13 paragraph (1), court-ordered services may be extended up to a
14 maximum time period not to exceed 18 months after the date the
15 child was originally removed from physical custody of his or her
16 parent or guardian if it can be shown, at the hearing held pursuant
17 to subdivision (f) of Section 366.21, that the permanent plan for
18 the child is that he or she will be returned and safely maintained
19 in the home within the extended time period. The court shall extend
20 the time period only if it finds that there is a substantial probability
21 that the child will be returned to the physical custody of his or her
22 parent or guardian within the extended time period or that
23 reasonable services have not been provided to the parent or
24 guardian. In determining whether court-ordered services may be
25 extended, the court shall consider the special circumstances of an
26 incarcerated or institutionalized parent or parents, parent or parents
27 court-ordered to a residential substance abuse treatment program,
28 or a parent who has been arrested and issued an immigration hold,
29 detained by the United States Department of Homeland Security,
30 or deported to his or her country of origin, including, but not
31 limited to, barriers to the parent's or guardian's access to services
32 and ability to maintain contact with his or her child. The court
33 shall also consider, among other factors, good faith efforts that the
34 parent or guardian has made to maintain contact with the child. If
35 the court extends the time period, the court shall specify the factual
36 basis for its conclusion that there is a substantial probability that
37 the child will be returned to the physical custody of his or her
38 parent or guardian within the extended time period. The court also
39 shall make findings pursuant to subdivision (a) of Section 366 and
40 subdivision (e) of Section 358.1.

1 When counseling or other treatment services are ordered, the
2 parent or guardian shall be ordered to participate in those services,
3 unless the parent's or guardian's participation is deemed by the
4 court to be inappropriate or potentially detrimental to the child, or
5 unless a parent or guardian is incarcerated or detained by the United
6 States Department of Homeland Security and the corrections
7 facility in which he or she is incarcerated does not provide access
8 to the treatment services ordered by the court, or has been deported
9 to his or her country of origin and services ordered by the court
10 are not accessible in that country. Physical custody of the child by
11 the parents or guardians during the applicable time period under
12 subparagraph (A), (B), or (C) of paragraph (1) shall not serve to
13 interrupt the running of the time period. If at the end of the
14 applicable time period, a child cannot be safely returned to the
15 care and custody of a parent or guardian without court supervision,
16 but the child clearly desires contact with the parent or guardian,
17 the court shall take the child's desire into account in devising a
18 permanency plan.

19 In cases where the child was under three years of age on the date
20 of the initial removal from the physical custody of his or her parent
21 or guardian or is a member of a sibling group as described in
22 subparagraph (C) of paragraph (1), the court shall inform the parent
23 or guardian that the failure of the parent or guardian to participate
24 regularly in any court-ordered treatment programs or to cooperate
25 or avail himself or herself of services provided as part of the child
26 welfare services case plan may result in a termination of efforts
27 to reunify the family after six months. The court shall inform the
28 parent or guardian of the factors used in subdivision (e) of Section
29 366.21 to determine whether to limit services to six months for
30 some or all members of a sibling group as described in
31 subparagraph (C) of paragraph (1).

32 (4) Notwithstanding paragraph (3), court-ordered services may
33 be extended up to a maximum time period not to exceed 24 months
34 after the date the child was originally removed from physical
35 custody of his or her parent or guardian if it is shown, at the hearing
36 held pursuant to subdivision (b) of Section 366.22, that the
37 permanent plan for the child is that he or she will be returned and
38 safely maintained in the home within the extended time period.
39 The court shall extend the time period only if it finds that it is in
40 the child's best interest to have the time period extended and that

1 there is a substantial probability that the child will be returned to
2 the physical custody of his or her parent or guardian who is
3 described in subdivision (b) of Section 366.22 within the extended
4 time period, or that reasonable services have not been provided to
5 the parent or guardian. If the court extends the time period, the
6 court shall specify the factual basis for its conclusion that there is
7 a substantial probability that the child will be returned to the
8 physical custody of his or her parent or guardian within the
9 extended time period. The court also shall make findings pursuant
10 to subdivision (a) of Section 366 and subdivision (e) of Section
11 358.1.

12 When counseling or other treatment services are ordered, the
13 parent or guardian shall be ordered to participate in those services,
14 in order for substantial probability to be found. Physical custody
15 of the child by the parents or guardians during the applicable time
16 period under subparagraph (A), (B), or (C) of paragraph (1) shall
17 not serve to interrupt the running of the time period. If at the end
18 of the applicable time period, the child cannot be safely returned
19 to the care and custody of a parent or guardian without court
20 supervision, but the child clearly desires contact with the parent
21 or guardian, the court shall take the child's desire into account in
22 devising a permanency plan.

23 ~~Except in cases where~~, *when*, pursuant to subdivision (b), the
24 court does not order reunification services, the court shall inform
25 the parent or parents of Section 366.26 and shall specify that the
26 parent's or parents' parental rights may be terminated.

27 (b) Reunification services need not be provided to a parent or
28 guardian described in this subdivision when the court finds, by
29 clear and convincing evidence, any of the following:

30 (1) That the whereabouts of the parent or guardian is unknown.
31 A finding pursuant to this paragraph shall be supported by an
32 affidavit or by proof that a reasonably diligent search has failed
33 to locate the parent or guardian. The posting or publication of
34 notices is not required in that search.

35 (2) That the parent or guardian is suffering from a mental
36 disability that is described in Chapter 2 (commencing with Section
37 7820) of Part 4 of Division 12 of the Family Code and that renders
38 him or her incapable of utilizing those services.

39 (3) That the child or a sibling of the child has been previously
40 adjudicated a dependent pursuant to any subdivision of Section

1 300 as a result of physical or sexual abuse, that following that
2 adjudication the child had been removed from the custody of his
3 or her parent or guardian pursuant to Section 361, that the child
4 has been returned to the custody of the parent or guardian from
5 whom the child had been taken originally, and that the child is
6 being removed pursuant to Section 361, due to additional physical
7 or sexual abuse.

8 (4) That the parent or guardian of the child has caused the death
9 of another child through abuse or neglect.

10 (5) That the child was brought within the jurisdiction of the
11 court under subdivision (e) of Section 300 because of the conduct
12 of that parent or guardian.

13 (6) That the child has been adjudicated a dependent pursuant
14 to any subdivision of Section 300 as a result of severe sexual abuse
15 or the infliction of severe physical harm to the child, a sibling, or
16 a half sibling by a parent or guardian, as defined in this subdivision,
17 and the court makes a factual finding that it would not benefit the
18 child to pursue reunification services with the offending parent or
19 guardian.

20 A finding of severe sexual abuse, for the purposes of this
21 subdivision, may be based on, but is not limited to, sexual
22 intercourse, or stimulation involving genital-genital, oral-genital,
23 anal-genital, or oral-anal contact, whether between the parent or
24 guardian and the child or a sibling or half sibling of the child, or
25 between the child or a sibling or half sibling of the child and
26 another person or animal with the actual or implied consent of the
27 parent or guardian; or the penetration or manipulation of the
28 child's, sibling's, or half sibling's genital organs or rectum by any
29 animate or inanimate object for the sexual gratification of the
30 parent or guardian, or for the sexual gratification of another person
31 with the actual or implied consent of the parent or guardian.

32 A finding of the infliction of severe physical harm, for the
33 purposes of this subdivision, may be based on, but is not limited
34 to, deliberate and serious injury inflicted to or on a child's body
35 or the body of a sibling or half sibling of the child by an act or
36 omission of the parent or guardian, or of another individual or
37 animal with the consent of the parent or guardian; deliberate and
38 torturous confinement of the child, sibling, or half sibling in a
39 closed space; or any other torturous act or omission that would be
40 reasonably understood to cause serious emotional damage.

1 (7) That the parent is not receiving reunification services for a
2 sibling or a half sibling of the child pursuant to paragraph (3), (5),
3 or (6).

4 (8) That the child was conceived by means of the commission
5 of an offense listed in Section 288 or 288.5 of the Penal Code, or
6 by an act committed outside of this state that, if committed in this
7 state, would constitute one of those offenses. This paragraph only
8 applies to the parent who committed the offense or act.

9 (9) That the child has been found to be a child described in
10 subdivision (g) of Section 300; that the parent or guardian of the
11 child willfully abandoned the child, and the court finds that the
12 abandonment itself constituted a serious danger to the child; or
13 that the parent or other person having custody of the child
14 voluntarily surrendered physical custody of the child pursuant to
15 Section 1255.7 of the Health and Safety Code. For the purposes
16 of this paragraph, “serious danger” means that without the
17 intervention of another person or agency, the child would have
18 sustained severe or permanent disability, injury, illness, or death.
19 For purposes of this paragraph, “willful abandonment” shall not
20 be construed as actions taken in good faith by the parent without
21 the intent of placing the child in serious danger.

22 (10) That the court ordered termination of reunification services
23 for any siblings or half siblings of the child because the parent or
24 guardian failed to reunify with the sibling or half sibling after the
25 sibling or half sibling had been removed from that parent or
26 guardian pursuant to Section 361 and that parent or guardian is
27 the same parent or guardian described in subdivision (a) and that,
28 according to the findings of the court, this parent or guardian has
29 not subsequently made a reasonable effort to treat the problems
30 that led to removal of the sibling or half sibling of that child from
31 that parent or guardian.

32 (11) That the parental rights of a parent over any sibling or half
33 sibling of the child had been permanently severed, and this parent
34 is the same parent described in subdivision (a), and that, according
35 to the findings of the court, this parent has not subsequently made
36 a reasonable effort to treat the problems that led to removal of the
37 sibling or half sibling of that child from the parent.

38 (12) That the parent or guardian of the child has been convicted
39 of a violent felony, as defined in subdivision (c) of Section 667.5
40 of the Penal Code.

1 (13) That the parent or guardian of the child has a history of
2 extensive, abusive, and chronic use of drugs or alcohol and has
3 resisted prior court-ordered treatment for this problem during a
4 three-year period immediately prior to the filing of the petition
5 that brought that child to the court's attention, or has failed or
6 refused to comply with a program of drug or alcohol treatment
7 described in the case plan required by Section 358.1 on at least
8 two prior occasions, even though the programs identified were
9 available and accessible.

10 (14) That the parent or guardian of the child has advised the
11 court that he or she is not interested in receiving family
12 maintenance or family reunification services or having the child
13 returned to or placed in his or her custody and does not wish to
14 receive family maintenance or reunification services.

15 The parent or guardian shall be represented by counsel and shall
16 execute a waiver of services form to be adopted by the Judicial
17 Council. The court shall advise the parent or guardian of any right
18 to services and of the possible consequences of a waiver of
19 services, including the termination of parental rights and placement
20 of the child for adoption. The court shall not accept the waiver of
21 services unless it states on the record its finding that the parent or
22 guardian has knowingly and intelligently waived the right to
23 services.

24 (15) That the parent or guardian has on one or more occasions
25 willfully abducted the child or child's sibling or half sibling from
26 his or her placement and refused to disclose the child's or child's
27 sibling's or half sibling's whereabouts, refused to return physical
28 custody of the child or child's sibling or half sibling to his or her
29 placement, or refused to return physical custody of the child or
30 child's sibling or half sibling to the social worker.

31 (16) That the parent or guardian has been required by the court
32 to be registered on a sex offender registry under the federal Adam
33 Walsh Child Protection and Safety Act of 2006 (42 U.S.C. Sec.
34 16913(a)), as required in Section 106(b)(2)(B)(xvi)(VI) of the
35 Child Abuse Prevention and Treatment Act of 2006 (42 U.S.C.
36 Sec. 5106a(2)(B)(xvi)(VI)).

37 (c) In deciding whether to order reunification in any case in
38 which this section applies, the court shall hold a dispositional
39 hearing. The social worker shall prepare a report that discusses
40 whether reunification services shall be provided. When it is alleged,

1 pursuant to paragraph (2) of subdivision (b), that the parent is
2 incapable of utilizing services due to mental disability, the court
3 shall order reunification services unless competent evidence from
4 mental health professionals establishes that, even with the provision
5 of services, the parent is unlikely to be capable of adequately caring
6 for the child within the time limits specified in subdivision (a).

7 The court shall not order reunification for a parent or guardian
8 described in paragraph (3), (4), (6), (7), (8), (9), (10), (11), (12),
9 (13), (14), (15), or (16) of subdivision (b) unless the court finds,
10 by clear and convincing evidence, that reunification is in the best
11 interest of the child.

12 In addition, the court shall not order reunification in any situation
13 described in paragraph (5) of subdivision (b) unless it finds that,
14 based on competent testimony, those services are likely to prevent
15 reabuse or continued neglect of the child or that failure to try
16 reunification will be detrimental to the child because the child is
17 closely and positively attached to that parent. The social worker
18 shall investigate the circumstances leading to the removal of the
19 child and advise the court whether there are circumstances that
20 indicate that reunification is likely to be successful or unsuccessful
21 and whether failure to order reunification is likely to be detrimental
22 to the child.

23 The failure of the parent to respond to previous services, the fact
24 that the child was abused while the parent was under the influence
25 of drugs or alcohol, a past history of violent behavior, or testimony
26 by a competent professional that the parent's behavior is unlikely
27 to be changed by services are among the factors indicating that
28 reunification services are unlikely to be successful. The fact that
29 a parent or guardian is no longer living with an individual who
30 severely abused the child may be considered in deciding that
31 reunification services are likely to be successful, provided that the
32 court shall consider any pattern of behavior on the part of the parent
33 that has exposed the child to repeated abuse.

34 (d) If reunification services are not ordered pursuant to
35 paragraph (1) of subdivision (b) and the whereabouts of a parent
36 become known within six months of the out-of-home placement
37 of the child, the court shall order the social worker to provide
38 family reunification services in accordance with this subdivision.

39 (e) (1) If the parent or guardian is incarcerated, institutionalized,
40 or detained by the United States Department of Homeland Security,

1 or has been deported to his or her country of origin, the court shall
2 order reasonable services unless the court determines, by clear and
3 convincing evidence, those services would be detrimental to the
4 child. In determining detriment, the court shall consider the age
5 of the child, the degree of parent-child bonding, the length of the
6 sentence, the length and nature of the treatment, the nature of the
7 crime or illness, the degree of detriment to the child if services are
8 not offered and, for children 10 years of age or older, the child's
9 attitude toward the implementation of family reunification services,
10 the likelihood of the parent's discharge from incarceration,
11 institutionalization, or detention within the reunification time
12 limitations described in subdivision (a), and any other appropriate
13 factors. In determining the content of reasonable services, the court
14 shall consider the particular barriers to an incarcerated,
15 institutionalized, detained, or deported parent's access to those
16 court-mandated services and ability to maintain contact with his
17 or her child, and shall document this information in the child's
18 case plan. Reunification services are subject to the applicable time
19 limitations imposed in subdivision (a). Services may include, but
20 shall not be limited to, all of the following:

21 (A) Maintaining contact between the parent and child through
22 collect telephone calls.

23 (B) Transportation services, ~~where~~ *when* appropriate.

24 (C) Visitation services, ~~where~~ *when* appropriate.

25 (D) Reasonable services to extended family members or foster
26 parents providing care for the child if the services are not
27 detrimental to the child.

28 An incarcerated or detained parent may be required to attend
29 counseling, parenting classes, or vocational training programs as
30 part of the reunification service plan if actual access to these
31 services is provided. The social worker shall document in the
32 child's case plan the particular barriers to an incarcerated,
33 institutionalized, or detained parent's access to those
34 court-mandated services and ability to maintain contact with his
35 or her child.

36 (E) Reasonable efforts to assist parents who have been deported
37 to contact child welfare authorities in their country of origin, to
38 identify any available services that would substantially comply
39 with case plan requirements, to document the parents' participation
40 in those services, and to accept reports from local child welfare

1 authorities as to the parents' living situation, progress, and
2 participation in services.

3 (2) The presiding judge of the juvenile court of each county
4 may convene representatives of the county welfare department,
5 the sheriff's department, and other appropriate entities for the
6 purpose of developing and entering into protocols for ensuring the
7 notification, transportation, and presence of an incarcerated or
8 institutionalized parent at all court hearings involving proceedings
9 affecting the child pursuant to Section 2625 of the Penal Code.
10 The county welfare department shall utilize the prisoner locator
11 system developed by the Department of Corrections and
12 Rehabilitation to facilitate timely and effective notice of hearings
13 for incarcerated parents.

14 (3) Notwithstanding any other ~~provision~~ of law, if the
15 incarcerated parent is a woman seeking to participate in the
16 community treatment program operated by the Department of
17 Corrections and Rehabilitation pursuant to Chapter 4.8
18 (commencing with Section 1174) of Title 7 of Part 2 of, Chapter
19 4 (commencing with Section 3410) of Title 2 of Part 3 of, the Penal
20 Code, the court shall determine whether the parent's participation
21 in a program is in the child's best interest and whether it is suitable
22 to meet the needs of the parent and child.

23 (f) If the court, pursuant to paragraph (2), (3), (4), (5), (6), (7),
24 (8), (9), (10), (11), (12), (13), (14), (15), or (16) of subdivision (b)
25 or paragraph (1) of subdivision (e), does not order reunification
26 services, it shall, at the dispositional hearing, ~~that~~ *which* shall
27 include a permanency hearing, determine if a hearing under Section
28 366.26 shall be set in order to determine whether adoption,
29 guardianship, *placement with a fit or long-term foster care, willing*
30 *relative, or, if the child is 16 years of age or older and receiving*
31 *specialized permanency services, as defined in Section 11400,*
32 *placement in another planned permanent living arrangement, or*
33 *in the case of an Indian child, in consultation with the child's tribe,*
34 *tribal customary adoption, is the most appropriate plan for the*
35 *child, and shall consider in-state and out-of-state placement options.*
36 If the court so determines, it shall conduct the hearing pursuant to
37 Section 366.26 within 120 days after the dispositional hearing.
38 However, the court shall not schedule a hearing so long as the
39 other parent is being provided reunification services pursuant to
40 subdivision (a). The court may continue to permit the parent to

1 visit the child unless it finds that visitation would be detrimental
2 to the child.

3 (g) (1) Whenever a court orders that a hearing shall be held
4 pursuant to Section 366.26, including, when, in consultation with
5 the child's tribe, tribal customary adoption is recommended, it
6 shall direct the agency supervising the child and the county
7 adoption agency, or the State Department of Social Services when
8 it is acting as an adoption agency, to prepare an assessment that
9 shall include:

10 (A) Current search efforts for an absent parent or parents and
11 notification of a noncustodial parent in the manner provided for
12 in Section 291.

13 (B) A review of the amount of and nature of any contact between
14 the child and his or her parents and other members of his or her
15 extended family since the time of placement. Although the
16 extended family of each child shall be reviewed on a case-by-case
17 basis, "extended family" for the purpose of this subparagraph shall
18 include, but not be limited to, the child's siblings, grandparents,
19 aunts, and uncles.

20 (C) An evaluation of the child's medical, developmental,
21 scholastic, mental, and emotional status.

22 (D) A preliminary assessment of the eligibility and commitment
23 of any identified prospective adoptive parent or guardian, including
24 a prospective tribal customary adoptive parent, particularly the
25 caretaker, to include a social history, including screening for
26 criminal records and prior referrals for child abuse or neglect, the
27 capability to meet the child's needs, and the understanding of the
28 legal and financial rights and responsibilities of adoption and
29 guardianship. If a proposed guardian is a relative of the minor, the
30 assessment shall also consider, but need not be limited to, all of
31 the factors specified in subdivision (a) of Section 361.3 and in
32 Section 361.4. As used in this subparagraph, "relative" means an
33 adult who is related to the minor by blood, adoption, or affinity
34 within the fifth degree of kinship, including stepparents,
35 stepsiblings, and all relatives whose status is preceded by the words
36 "great," "great-great," or "grand," or the spouse of any of those
37 persons even if the marriage was terminated by death or
38 dissolution. If the proposed permanent plan is guardianship with
39 an approved relative caregiver for a minor eligible for aid under
40 the Kin-GAP Program, as provided for in Article 4.7 (commencing

1 with Section 11385) of Chapter 2 of Part 3 of Division 9, “relative”
2 as used in this section has the same meaning as “relative” as
3 defined in subdivision (c) of Section 11391.

4 (E) The relationship of the child to any identified prospective
5 adoptive parent or guardian, including a prospective tribal
6 customary parent, the duration and character of the relationship,
7 the degree of attachment of the child to the prospective relative
8 guardian or adoptive parent, the relative’s or adoptive parent’s
9 strong commitment to caring permanently for the child, the
10 motivation for seeking adoption or guardianship, a statement from
11 the child concerning placement and the adoption or guardianship,
12 and whether the child over 12 years of age has been consulted
13 about the proposed relative guardianship arrangements, unless the
14 child’s age or physical, emotional, or other condition precludes
15 his or her meaningful response, and if so, a description of the
16 condition.

17 (F) An analysis of the likelihood that the child will be adopted
18 if parental rights are terminated.

19 (G) In the case of an Indian child, in addition to subparagraphs
20 (A) to (F), inclusive, an assessment of the likelihood that the child
21 will be adopted, when, in consultation with the child’s tribe, a
22 customary adoption, as defined in Section 366.24, is recommended.
23 If tribal customary adoption is recommended, the assessment shall
24 include an analysis of both of the following:

25 (i) Whether tribal customary adoption would or would not be
26 detrimental to the Indian child and the reasons for reaching that
27 conclusion.

28 (ii) Whether the Indian child cannot or should not be returned
29 to the home of the Indian parent or Indian custodian and the reasons
30 for reaching that conclusion.

31 (2) (A) A relative caregiver’s preference for legal guardianship
32 over adoption, if it is due to circumstances that do not include an
33 unwillingness to accept legal or financial responsibility for the
34 child, shall not constitute the sole basis for recommending removal
35 of the child from the relative caregiver for purposes of adoptive
36 placement.

37 (B) Regardless of his or her immigration status, a relative
38 caregiver shall be given information regarding the permanency
39 options of guardianship and adoption, including the long-term
40 benefits and consequences of each option, prior to establishing

1 legal guardianship or pursuing adoption. If the proposed permanent
2 plan is guardianship with an approved relative caregiver for a
3 minor eligible for aid under the Kin-GAP Program, as provided
4 for in Article 4.7 (commencing with Section 11385) of Chapter 2
5 of Part 3 of Division 9, the relative caregiver shall be informed
6 about the terms and conditions of the negotiated agreement
7 pursuant to Section 11387 and shall agree to its execution prior to
8 the hearing held pursuant to Section 366.26. A copy of the executed
9 negotiated agreement shall be attached to the assessment.

10 (h) If, at any hearing held pursuant to Section 366.26, a
11 guardianship is established for the minor with an approved relative
12 caregiver and juvenile court dependency is subsequently dismissed,
13 the minor shall be eligible for aid under the Kin-GAP Program as
14 provided for in Article 4.5 (commencing with Section 11360) or
15 Article 4.7 (commencing with Section 11385) of Chapter 2 of Part
16 3 of Division 9, as applicable.

17 (i) In determining whether reunification services will benefit
18 the child pursuant to paragraph (6) or (7) of subdivision (b), the
19 court shall consider any information it deems relevant, including
20 the following factors:

21 (1) The specific act or omission comprising the severe sexual
22 abuse or the severe physical harm inflicted on the child or the
23 child's sibling or half sibling.

24 (2) The circumstances under which the abuse or harm was
25 inflicted on the child or the child's sibling or half sibling.

26 (3) The severity of the emotional trauma suffered by the child
27 or the child's sibling or half sibling.

28 (4) Any history of abuse of other children by the offending
29 parent or guardian.

30 (5) The likelihood that the child may be safely returned to the
31 care of the offending parent or guardian within 12 months with no
32 continuing supervision.

33 (6) Whether or not the child desires to be reunified with the
34 offending parent or guardian.

35 (j) When the court determines that reunification services will
36 not be ordered, it shall order that the child's caregiver receive the
37 child's birth certificate in accordance with Sections 16010.4 and
38 16010.5. Additionally, when the court determines that reunification
39 services will not be ordered, it shall order, when appropriate, that

1 a child who is 16 years of age or older receive his or her birth
2 certificate.

3 (k) The court shall read into the record the basis for a finding
4 of severe sexual abuse or the infliction of severe physical harm
5 under paragraph (6) of subdivision (b), and shall also specify the
6 factual findings used to determine that the provision of
7 reunification services to the offending parent or guardian would
8 not benefit the child.

9 *SEC. 5. Section 366 of the Welfare and Institutions Code is*
10 *amended to read:*

11 366. (a) (1) The status of every dependent child in foster care
12 shall be reviewed periodically as determined by the court but no
13 less frequently than once every six months, as calculated from the
14 date of the original dispositional hearing, until the hearing
15 described in Section 366.26 is completed. The court shall consider
16 the safety of the child and shall determine all of the following:

17 (A) The continuing necessity for and appropriateness of the
18 placement.

19 (B) The extent of the agency's compliance with the case plan
20 in making reasonable efforts, or, in the case of an Indian child,
21 active efforts as described in Section 361.7, to return the child to
22 a safe home and to complete any steps necessary to finalize the
23 permanent placement of the child, including efforts to maintain
24 relationships between a child who is 10 years of age or older and
25 who has been in an out-of-home placement for six months or
26 longer, and individuals other than the child's siblings who are
27 important to the child, consistent with the child's best interests.

28 (C) Whether there should be any limitation on the right of the
29 parent or guardian to make educational decisions or developmental
30 services decisions for the child. That limitation shall be specifically
31 addressed in the court order and may not exceed those necessary
32 to protect the child. Whenever the court specifically limits the right
33 of the parent or guardian to make educational decisions or
34 developmental services decisions for the child, the court shall at
35 the same time appoint a responsible adult to make educational
36 decisions or developmental services decisions for the child pursuant
37 to Section 361.

38 (D) (i) Whether the child has other siblings under the court's
39 jurisdiction, and, if any siblings exist, all of the following:

1 (I) The nature of the relationship between the child and his or
2 her siblings.

3 (II) The appropriateness of developing or maintaining the sibling
4 relationships pursuant to Section 16002.

5 (III) If the siblings are not placed together in the same home,
6 why the siblings are not placed together and what efforts are being
7 made to place the siblings together, or why those efforts are not
8 appropriate.

9 (IV) If the siblings are not placed together, all of the following:

10 (ia) The frequency and nature of the visits between the siblings.

11 (ib) If there are visits between the siblings, whether the visits
12 are supervised or unsupervised. If the visits are supervised, a
13 discussion of the reasons why the visits are supervised, and what
14 needs to be accomplished in order for the visits to be unsupervised.

15 (ic) If there are visits between the siblings, a description of the
16 location and length of the visits.

17 (id) Any plan to increase visitation between the siblings.

18 (V) The impact of the sibling relationships on the child's
19 placement and planning for legal permanence.

20 (VI) The continuing need to suspend sibling interaction, if
21 applicable, pursuant to subdivision (c) of Section 16002.

22 (ii) The factors the court may consider in making a determination
23 regarding the nature of the child's sibling relationships may
24 include, but are not limited to, whether the siblings were raised
25 together in the same home, whether the siblings have shared
26 significant common experiences or have existing close and strong
27 bonds, whether either sibling expresses a desire to visit or live with
28 his or her sibling, as applicable, and whether ongoing contact is
29 in the child's best emotional interests.

30 (E) The extent of progress that has been made toward alleviating
31 or mitigating the causes necessitating placement in foster care.

32 (F) If the review hearing is the last review hearing to be held
33 before the child attains 18 years of age, the court shall conduct the
34 hearing pursuant to Section 366.31 or 366.32.

35 (2) The court shall project a likely date by which the child may
36 be returned to and safely maintained in the home or placed for
37 adoption, legal guardianship, *with a fit and willing relative, or, if*
38 *16 years of age or older and receiving specialized permanency*
39 *services, as defined in Section 11400, in another planned permanent*
40 *living arrangement.*

1 (b) Subsequent to the hearing, periodic reviews of each child
2 in foster care shall be conducted pursuant to the requirements of
3 Sections 366.3 and 16503.

4 (c) If the child has been placed out of state, each review
5 described in subdivision (a) and any reviews conducted pursuant
6 to Sections 366.3 and 16503 shall also address whether the
7 out-of-state placement continues to be the most appropriate
8 placement selection and in the best interests of the child.

9 (d) (1) A review described in subdivision (a) and any reviews
10 conducted pursuant to Sections 366.3 and 16503 shall not result
11 in a placement of a child outside the United States prior to a judicial
12 finding that the placement is in the best interest of the child, except
13 as required by federal law or treaty.

14 (2) The party or agency requesting placement of the child outside
15 the United States shall carry the burden of proof and must show,
16 by clear and convincing evidence, that a placement outside the
17 United States is in the best interest of the child.

18 (3) In determining the best interest of the child, the court shall
19 consider, but not be limited to, the following factors:

20 (A) Placement with a relative.

21 (B) Placement of siblings in the same home.

22 (C) Amount and nature of any contact between the child and
23 the potential guardian or caretaker.

24 (D) Physical and medical needs of the dependent child.

25 (E) Psychological and emotional needs of the dependent child.

26 (F) Social, cultural, and educational needs of the dependent
27 child.

28 (G) Specific desires of any dependent child who is 12 years of
29 age or older.

30 (4) If the court finds that a placement outside the United States
31 is, by clear and convincing evidence, in the best interest of the
32 child, the court may issue an order authorizing the social worker
33 or placing agency to make a placement outside the United States.
34 A child subject to this subdivision shall not leave the United States
35 prior to the issuance of the order described in this paragraph.

36 (5) For purposes of this subdivision, "outside the United States"
37 shall not include the lands of any federally recognized American
38 Indian tribe or Alaskan Natives.

39 (6) This section shall not apply to the placement of a dependent
40 child with a parent.

1 (e) A child may not be placed in an out-of-state group home,
2 or remain in an out-of-state group home, unless the group home
3 is in compliance with Section 7911.1 of the Family Code.

4 (f) The implementation and operation of the amendments to
5 subparagraph (B) of paragraph (1) of subdivision (a) enacted at
6 the 2005–06 Regular Session shall be subject to appropriation
7 through the budget process and by phase, as provided in Section
8 366.35.

9 (g) The status review of every nonminor dependent, as defined
10 in subdivision (v) of Section 11400, shall be conducted pursuant
11 to the requirements of Sections 366.3, 366.31, or 366.32, and 16503
12 until dependency jurisdiction is terminated pursuant to Section
13 391.

14 *SEC. 6. Section 366.21 of the Welfare and Institutions Code*
15 *is amended to read:*

16 366.21. (a) Every hearing conducted by the juvenile court
17 reviewing the status of a dependent child shall be placed on the
18 appearance calendar. The court shall advise all persons present at
19 the hearing of the date of the future hearing and of their right to
20 be present and represented by counsel.

21 (b) Except as provided in Sections 294 and 295, notice of the
22 hearing shall be provided pursuant to Section 293.

23 (c) At least 10 calendar days prior to the hearing, the social
24 worker shall file a supplemental report with the court regarding
25 the services provided or offered to the parent or legal guardian to
26 enable him or her to assume custody and the efforts made to
27 achieve legal permanence for the child if efforts to reunify fail,
28 including, but not limited to, efforts to maintain relationships
29 between a child who is 10 years of age or older and has been in
30 out-of-home placement for six months or longer and individuals
31 who are important to the child, consistent with the child's best
32 interests; the progress made; and, where relevant, the prognosis
33 for return of the child to the physical custody of his or her parent
34 or legal guardian; and shall make his or her recommendation for
35 disposition. If the child is a member of a sibling group described
36 in subparagraph (C) of paragraph (1) of subdivision (a) of Section
37 361.5, the report and recommendation may also take into account
38 those factors described in subdivision (e) relating to the child's
39 sibling group. If the recommendation is not to return the child to
40 a parent or legal guardian, the report shall specify why the return

1 of the child would be detrimental to the child. The social worker
2 shall provide the parent or legal guardian, counsel for the child,
3 and any court-appointed child advocate with a copy of the report,
4 including his or her recommendation for disposition, at least 10
5 calendar days prior to the hearing. In the case of a child removed
6 from the physical custody of his or her parent or legal guardian,
7 the social worker shall, at least 10 calendar days prior to the
8 hearing, provide a summary of his or her recommendation for
9 disposition to any foster parents, relative caregivers, and certified
10 foster parents who have been approved for adoption by the State
11 Department of Social Services when it is acting as an adoption
12 agency or by a county adoption agency, community care facility,
13 or foster family agency having the physical custody of the child.
14 The social worker shall include a copy of the Judicial Council
15 Caregiver Information Form (JV-290) with the summary of
16 recommendations to the child's foster parents, relative caregivers,
17 or foster parents approved for adoption, in the caregiver's primary
18 language when available, along with information on how to file
19 the form with the court.

20 (d) Prior to any hearing involving a child in the physical custody
21 of a community care facility or a foster family agency that may
22 result in the return of the child to the physical custody of his or
23 her parent or legal guardian, or in adoption or the creation of a
24 legal guardianship, or in the case of an Indian child, in consultation
25 with the child's tribe, tribal customary adoption, the facility or
26 agency shall file with the court a report, or a Judicial Council
27 Caregiver Information Form (JV-290), containing its
28 recommendation for disposition. Prior to the hearing involving a
29 child in the physical custody of a foster parent, a relative caregiver,
30 or a certified foster parent who has been approved for adoption by
31 the State Department of Social Services when it is acting as an
32 adoption agency or by a county adoption agency, the foster parent,
33 relative caregiver, or the certified foster parent who has been
34 approved for adoption by the State Department of Social Services
35 when it is acting as an adoption agency or by a county adoption
36 agency, may file with the court a report containing his or her
37 recommendation for disposition. The court shall consider the report
38 and recommendation filed pursuant to this subdivision prior to
39 determining any disposition.

(e) At the review hearing held six months after the initial dispositional hearing, but no later than 12 months after the date the child entered foster care as determined in Section 361.49, whichever occurs earlier, after considering the admissible and relevant evidence, the court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment. At the hearing, the court shall consider the criminal history, obtained pursuant to paragraph (1) of subdivision (f) of Section 16504.5, of the parent or legal guardian subsequent to the child's removal to the extent that the criminal record is substantially related to the welfare of the child or the parent's or guardian's ability to exercise custody and control regarding his or her child, provided the parent or legal guardian agreed to submit fingerprint images to obtain criminal history information as part of the case plan. The court shall also consider whether the child can be returned to the custody of his or her parent who is enrolled in a certified substance abuse treatment facility that allows a dependent child to reside with his or her parent. The fact that the parent is enrolled in a certified substance abuse treatment facility shall not be, for that reason alone, prima facie evidence of detriment. The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In making its determination, the court shall review and consider the social worker's report and recommendations and the report and recommendations of any child advocate appointed pursuant to Section 356.5; and shall consider the efforts or progress, or both, demonstrated by the parent or legal guardian and the extent to which he or she availed himself or herself to services provided, taking into account the particular barriers to an incarcerated, institutionalized, detained, or deported parent's or legal guardian's access to those court-mandated services and ability to maintain contact with his or her child.

Regardless of whether the child is returned to a parent or legal guardian, the court shall specify the factual basis for its conclusion that the return would be detrimental or would not be detrimental.

1 The court also shall make appropriate findings pursuant to
2 subdivision (a) of Section 366; and, ~~where~~ *when* relevant, shall
3 order any additional services reasonably believed to facilitate the
4 return of the child to the custody of his or her parent or legal
5 guardian. The court shall also inform the parent or legal guardian
6 that if the child cannot be returned home by the 12-month
7 permanency hearing, a proceeding pursuant to Section 366.26 may
8 be instituted. This section does not apply ~~in a case where~~, *when*,
9 pursuant to Section 361.5, the court has ordered that reunification
10 services shall not be provided.

11 If the child was under three years of age on the date of the initial
12 removal, or is a member of a sibling group described in
13 subparagraph (C) of paragraph (1) of subdivision (a) of Section
14 361.5, and the court finds by clear and convincing evidence that
15 the parent failed to participate regularly and make substantive
16 progress in a court-ordered treatment plan, the court may schedule
17 a hearing pursuant to Section 366.26 within 120 days. If, however,
18 the court finds there is a substantial probability that the child, who
19 was under three years of age on the date of initial removal or is a
20 member of a sibling group described in subparagraph (C) of
21 paragraph (1) of subdivision (a) of Section 361.5, may be returned
22 to his or her parent or legal guardian within six months or that
23 reasonable services have not been provided, the court shall continue
24 the case to the 12-month permanency hearing.

25 For the purpose of placing and maintaining a sibling group
26 together in a permanent home, the court, in making its
27 determination to schedule a hearing pursuant to Section 366.26
28 for some or all members of a sibling group, as described in
29 subparagraph (C) of paragraph (1) of subdivision (a) of Section
30 361.5, shall review and consider the social worker's report and
31 recommendations. Factors the report shall address, and the court
32 shall consider, may include, but need not be limited to, whether
33 the sibling group was removed from parental care as a group, the
34 closeness and strength of the sibling bond, the ages of the siblings,
35 the appropriateness of maintaining the sibling group together, the
36 detriment to the child if sibling ties are not maintained, the
37 likelihood of finding a permanent home for the sibling group,
38 whether the sibling group is currently placed together in a
39 preadoptive home or has a concurrent plan goal of legal
40 permanency in the same home, the wishes of each child whose

1 age and physical and emotional condition permits a meaningful
2 response, and the best interests of each child in the sibling group.
3 The court shall specify the factual basis for its finding that it is in
4 the best interests of each child to schedule a hearing pursuant to
5 Section 366.26 within 120 days for some or all of the members of
6 the sibling group.

7 If the child was removed initially under subdivision (g) of
8 Section 300 and the court finds by clear and convincing evidence
9 that the whereabouts of the parent are still unknown, or the parent
10 has failed to contact and visit the child, the court may schedule a
11 hearing pursuant to Section 366.26 within 120 days. The court
12 shall take into account any particular barriers to a parent's ability
13 to maintain contact with his or her child due to the parent's
14 incarceration, institutionalization, detention by the United States
15 Department of Homeland Security, or deportation. If the court
16 finds by clear and convincing evidence that the parent has been
17 convicted of a felony indicating parental unfitness, the court may
18 schedule a hearing pursuant to Section 366.26 within 120 days.

19 If the child had been placed under court supervision with a
20 previously noncustodial parent pursuant to Section 361.2, the court
21 shall determine whether supervision is still necessary. The court
22 may terminate supervision and transfer permanent custody to that
23 parent, as provided for by paragraph (1) of subdivision (b) of
24 Section 361.2.

25 In all other cases, the court shall direct that any reunification
26 services previously ordered shall continue to be offered to the
27 parent or legal guardian pursuant to the time periods set forth in
28 subdivision (a) of Section 361.5, provided that the court may
29 modify the terms and conditions of those services.

30 If the child is not returned to his or her parent or legal guardian,
31 the court shall determine whether reasonable services that were
32 designed to aid the parent or legal guardian in overcoming the
33 problems that led to the initial removal and the continued custody
34 of the child have been provided or offered to the parent or legal
35 guardian. The court shall order that those services be initiated,
36 continued, or terminated.

37 (f) The permanency hearing shall be held no later than 12
38 months after the date the child entered foster care, as that date is
39 determined pursuant to Section 361.49. At the permanency hearing,
40 the court shall determine the permanent plan for the child, which

1 shall include a determination of whether the child will be returned
2 to the child's home and, if so, when, within the time limits of
3 subdivision (a) of Section 361.5. After considering the relevant
4 and admissible evidence, the court shall order the return of the
5 child to the physical custody of his or her parent or legal guardian
6 unless the court finds, by a preponderance of the evidence, that
7 the return of the child to his or her parent or legal guardian would
8 create a substantial risk of detriment to the safety, protection, or
9 physical or emotional well-being of the child. The social worker
10 shall have the burden of establishing that detriment. At the
11 permanency hearing, the court shall consider the criminal history,
12 obtained pursuant to paragraph (1) of subdivision (f) of Section
13 16504.5, of the parent or legal guardian subsequent to the child's
14 removal to the extent that the criminal record is substantially related
15 to the welfare of the child or the parent's or legal guardian's ability
16 to exercise custody and control regarding his or her child, provided
17 that the parent or legal guardian agreed to submit fingerprint images
18 to obtain criminal history information as part of the case plan. The
19 court shall also determine whether reasonable services that were
20 designed to aid the parent or legal guardian to overcome the
21 problems that led to the initial removal and continued custody of
22 the child have been provided or offered to the parent or legal
23 guardian. For each youth 16 years of age and older, the court shall
24 also determine whether services have been made available to assist
25 him or her in making the transition from foster care to ~~independent~~
26 ~~living-~~ *successful adulthood*. The court shall also consider whether
27 the child can be returned to the custody of his or her parent who
28 is enrolled in a certified substance abuse treatment facility that
29 allows a dependent child to reside with his or her parent. The fact
30 that the parent is enrolled in a certified substance abuse treatment
31 facility shall not be, for that reason alone, prima facie evidence of
32 detriment. The failure of the parent or legal guardian to participate
33 regularly and make substantive progress in court-ordered treatment
34 programs shall be prima facie evidence that return would be
35 detrimental. In making its determination, the court shall review
36 and consider the social worker's report and recommendations and
37 the report and recommendations of any child advocate appointed
38 pursuant to Section 356.5, shall consider the efforts or progress,
39 or both, demonstrated by the parent or legal guardian and the extent
40 to which he or she availed himself or herself of services provided,

1 taking into account the particular barriers to an incarcerated,
2 institutionalized, detained, or deported parent's or legal guardian's
3 access to those court-mandated services and ability to maintain
4 contact with his or her child, and shall make appropriate findings
5 pursuant to subdivision (a) of Section 366.

6 Regardless of whether the child is returned to his or her parent
7 or legal guardian, the court shall specify the factual basis for its
8 decision. If the child is not returned to a parent or legal guardian,
9 the court shall specify the factual basis for its conclusion that the
10 return would be detrimental. The court also shall make a finding
11 pursuant to subdivision (a) of Section 366. If the child is not
12 returned to his or her parent or legal guardian, the court shall
13 consider, and state for the record, in-state and out-of-state
14 placement options. If the child is placed out of the state, the court
15 shall make a determination whether the out-of-state placement
16 continues to be appropriate and in the best interests of the child.

17 (g) If the time period in which the court-ordered services were
18 provided has met or exceeded the time period set forth in
19 subparagraph (A), (B), or (C) of paragraph (1) of subdivision (a)
20 of Section 361.5, as appropriate, and a child is not returned to the
21 custody of a parent or legal guardian at the permanency hearing
22 held pursuant to subdivision (f), the court shall do one of the
23 following:

24 (1) Continue the case for up to six months for a permanency
25 review hearing, provided that the hearing shall occur within 18
26 months of the date the child was originally taken from the physical
27 custody of his or her parent or legal guardian. The court shall
28 continue the case only if it finds that there is a substantial
29 probability that the child will be returned to the physical custody
30 of his or her parent or legal guardian and safely maintained in the
31 home within the extended period of time or that reasonable services
32 have not been provided to the parent or legal guardian. For the
33 purposes of this section, in order to find a substantial probability
34 that the child will be returned to the physical custody of his or her
35 parent or legal guardian and safely maintained in the home within
36 the extended period of time, the court shall be required to find all
37 of the following:

38 (A) That the parent or legal guardian has consistently and
39 regularly contacted and visited with the child.

1 (B) That the parent or legal guardian has made significant
2 progress in resolving problems that led to the child's removal from
3 the home.

4 (C) The parent or legal guardian has demonstrated the capacity
5 and ability both to complete the objectives of his or her treatment
6 plan and to provide for the child's safety, protection, physical and
7 emotional well-being, and special needs.

8 For purposes of this subdivision, the court's decision to continue
9 the case based on a finding or substantial probability that the child
10 will be returned to the physical custody of his or her parent or legal
11 guardian is a compelling reason for determining that a hearing
12 held pursuant to Section 366.26 is not in the best interests of the
13 child.

14 The court shall inform the parent or legal guardian that if the
15 child cannot be returned home by the next permanency review
16 hearing, a proceeding pursuant to Section 366.26 may be instituted.
17 The court shall not order that a hearing pursuant to Section 366.26
18 be held unless there is clear and convincing evidence that
19 reasonable services have been provided or offered to the parent or
20 legal guardian.

21 (2) Continue the case for up to six months for a permanency
22 review hearing, provided that the hearing shall occur within 18
23 months of the date the child was originally taken from the physical
24 custody of his or her parent or legal guardian, if the parent has
25 been arrested and issued an immigration hold, detained by the
26 United States Department of Homeland Security, or deported to
27 his or her country of origin, and the court determines either that
28 there is a substantial probability that the child will be returned to
29 the physical custody of his or her parent or legal guardian and
30 safely maintained in the home within the extended period of time
31 or that reasonable services have not been provided to the parent
32 or legal guardian.

33 (3) For purposes of paragraph (2), in order to find a substantial
34 probability that the child will be returned to the physical custody
35 of his or her parent or legal guardian and safely maintained in the
36 home within the extended period of time, the court shall find all
37 of the following:

38 (A) The parent or legal guardian has consistently and regularly
39 contacted and visited with the child, taking into account any
40 particular barriers to a parent's ability to maintain contact with his

1 or her child due to the parent's arrest and receipt of an immigration
2 hold, detention by the United States Department of Homeland
3 Security, or deportation.

4 (B) The parent or legal guardian has made significant progress
5 in resolving the problems that led to the child's removal from the
6 home.

7 (C) The parent or legal guardian has demonstrated the capacity
8 or ability both to complete the objectives of his or her treatment
9 plan and to provide for the child's safety, protection, physical and
10 emotional well-being, and special needs.

11 (4) Order that a hearing be held within 120 days, pursuant to
12 Section 366.26, but only if the court does not continue the case to
13 the permanency planning review hearing and there is clear and
14 convincing evidence that reasonable services have been provided
15 or offered to the parents or legal guardians. On and after January
16 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered
17 if the child is a nonminor dependent, unless the nonminor
18 dependent is an Indian child and tribal customary adoption is
19 recommended as the permanent plan.

20 (5) *Order that the child be placed with a fit and willing relative.*
21 *If the child is younger than 16 years of age and the court does not*
22 *take one of the actions specified in paragraphs (1) to (4), inclusive,*
23 *the court shall order that the child be placed with a fit and willing*
24 *relative and shall not order that the child remain in another*
25 *planned permanent living arrangement.*

26 ~~(5) Order~~

27 (6) *Order, if the child is 16 years of age or older and receiving*
28 *specialized permanency services, that the child remain in long-term*
29 *foster care; another planned permanent living arrangement, but*
30 *only if the court finds by clear and convincing evidence, based*
31 *upon the evidence already presented to it, including a*
32 *recommendation by the State Department of Social Services when*
33 *it is acting as an adoption agency or by a county adoption agency,*
34 *that there is a compelling reason for determining that a hearing*
35 *held pursuant to Section 366.26 is not in the best interests of the*
36 *child because the child is not a proper subject for adoption and has*
37 *no one willing to accept legal guardianship. A child shall not be*
38 *deemed not a proper subject for adoption or having no one willing*
39 *to accept legal guardianship and be ordered to remain in another*
40 *planned permanent living arrangement prior to the child having*

1 *been offered specialized permanency services, as defined in Section*
2 *11400.* For purposes of this section, a recommendation by the State
3 Department of Social Services when it is acting as an adoption
4 agency or by a county adoption agency that adoption is not in the
5 best interests of the child shall constitute a compelling reason for
6 the court's determination. That recommendation shall be based on
7 the present circumstances of the child and shall not preclude a
8 different recommendation at a later date if the child's circumstances
9 change. On and after January 1, 2012, the nonminor dependent's
10 legal status as an adult is in and of itself a compelling reason not
11 to hold a hearing pursuant to Section 366.26. The court may order
12 that a nonminor dependent who otherwise is eligible pursuant to
13 Section 11403 remain in a planned, permanent living arrangement.

14 If the court orders that a child who is ~~10~~ 16 years of age or older
15 remain in ~~long-term foster care~~, *another planned permanent living*
16 *arrangement*, the court shall determine whether the agency has
17 made reasonable efforts to maintain the child's relationships with
18 individuals other than the child's siblings who are important to the
19 child, consistent with the child's best interests, and may make any
20 appropriate order to ensure that those relationships are maintained.

21 If the child is not returned to his or her parent or legal guardian,
22 the court shall consider, and state for the record, in-state and
23 out-of-state options for permanent placement. If the child is placed
24 out of the state, the court shall make a determination whether the
25 out-of-state placement continues to be appropriate and in the best
26 interests of the child.

27 (h) In any case in which the court orders that a hearing pursuant
28 to Section 366.26 shall be held, it shall also order the termination
29 of reunification services to the parent or legal guardian. The court
30 shall continue to permit the parent or legal guardian to visit the
31 child pending the hearing unless it finds that visitation would be
32 detrimental to the child. The court shall make any other appropriate
33 orders to enable the child to maintain relationships with individuals,
34 other than the child's siblings, who are important to the child,
35 consistent with the child's best interests. When the court orders a
36 termination of reunification services to the parent or legal guardian,
37 it shall also order that the child's caregiver receive the child's birth
38 certificate in accordance with Sections 16010.4 and 16010.5.
39 Additionally, when the court orders a termination of reunification
40 services to the parent or legal guardian, it shall order, when

1 appropriate, that a child who is 16 years of age or older receive
2 his or her birth certificate.

3 (i) (1) Whenever a court orders that a hearing pursuant to
4 Section 366.26, including, when, in consultation with the child's
5 tribe, tribal customary adoption is recommended, shall be held, it
6 shall direct the agency supervising the child and the county
7 adoption agency, or the State Department of Social Services when
8 it is acting as an adoption agency, to prepare an assessment that
9 shall include:

10 (A) Current search efforts for an absent parent or parents or
11 legal guardians.

12 (B) A review of the amount of and nature of any contact between
13 the child and his or her parents or legal guardians and other
14 members of his or her extended family since the time of placement.
15 Although the extended family of each child shall be reviewed on
16 a case-by-case basis, "extended family" for the purpose of this
17 subparagraph shall include, but not be limited to, the child's
18 siblings, grandparents, aunts, and uncles.

19 (C) An evaluation of the child's medical, developmental,
20 scholastic, mental, and emotional status.

21 (D) A preliminary assessment of the eligibility and commitment
22 of any identified prospective adoptive parent or legal guardian,
23 including the prospective tribal customary adoptive parent,
24 particularly the caretaker, to include a social history including
25 screening for criminal records and prior referrals for child abuse
26 or neglect, the capability to meet the child's needs, and the
27 understanding of the legal and financial rights and responsibilities
28 of adoption and guardianship. If a proposed guardian is a relative
29 of the minor, the assessment shall also consider, but need not be
30 limited to, all of the factors specified in subdivision (a) of Section
31 361.3 and in Section 361.4.

32 (E) The relationship of the child to any identified prospective
33 adoptive parent or legal guardian, the duration and character of
34 the relationship, the degree of attachment of the child to the
35 prospective relative guardian or adoptive parent, the relative's or
36 adoptive parent's strong commitment to caring permanently for
37 the child, the motivation for seeking adoption or guardianship, a
38 statement from the child concerning placement and the adoption
39 or guardianship, and whether the child, if over 12 years of age,
40 has been consulted about the proposed relative guardianship

1 arrangements, unless the child's age or physical, emotional, or
2 other condition precludes his or her meaningful response, and if
3 so, a description of the condition.

4 (F) A description of efforts to be made to identify a prospective
5 adoptive parent or legal guardian, including, but not limited to,
6 child-specific recruitment and listing on an adoption exchange
7 within the state or out of the state.

8 (G) An analysis of the likelihood that the child will be adopted
9 if parental rights are terminated.

10 (H) In the case of an Indian child, in addition to subparagraphs
11 (A) to (G), inclusive, an assessment of the likelihood that the child
12 will be adopted, when, in consultation with the child's tribe, a
13 tribal customary adoption, as defined in Section 366.24, is
14 recommended. If tribal customary adoption is recommended, the
15 assessment shall include an analysis of both of the following:

16 (i) Whether tribal customary adoption would or would not be
17 detrimental to the Indian child and the reasons for reaching that
18 conclusion.

19 (ii) Whether the Indian child cannot or should not be returned
20 to the home of the Indian parent or Indian custodian and the reasons
21 for reaching that conclusion.

22 (2) (A) A relative caregiver's preference for legal guardianship
23 over adoption, if it is due to circumstances that do not include an
24 unwillingness to accept legal or financial responsibility for the
25 child, shall not constitute the sole basis for recommending removal
26 of the child from the relative caregiver for purposes of adoptive
27 placement.

28 (B) Regardless of his or her immigration status, a relative
29 caregiver shall be given information regarding the permanency
30 options of guardianship and adoption, including the long-term
31 benefits and consequences of each option, prior to establishing
32 legal guardianship or pursuing adoption. If the proposed permanent
33 plan is guardianship with an approved relative caregiver for a
34 minor eligible for aid under the Kin-GAP Program, as provided
35 for in Article 4.7 (commencing with Section 11385) of Chapter 2
36 of Part 3 of Division 9, the relative caregiver shall be informed
37 about the terms and conditions of the negotiated agreement
38 pursuant to Section 11387 and shall agree to its execution prior to
39 the hearing held pursuant to Section 366.26. A copy of the executed
40 negotiated agreement shall be attached to the assessment.

(j) If, at any hearing held pursuant to Section 366.26, a guardianship is established for the minor with an approved relative caregiver, and juvenile court dependency is subsequently dismissed, the minor shall be eligible for aid under the Kin-GAP Program, as provided for in Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385), as applicable, of Chapter 2 of Part 3 of Division 9.

(k) As used in this section, “relative” means an adult who is related to the minor by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words “great,” “great-great,” or “grand,” or the spouse of any of those persons even if the marriage was terminated by death or dissolution. If the proposed permanent plan is guardianship with an approved relative caregiver for a minor eligible for aid under the Kin-GAP Program, as provided for in Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of Division 9, “relative” as used in this section has the same meaning as “relative” as defined in subdivision (c) of Section 11391.

(l) For purposes of this section, evidence of any of the following circumstances may not, in and of itself, be deemed a failure to provide or offer reasonable services:

(1) The child has been placed with a foster family that is eligible to adopt a child, or has been placed in a preadoptive home.

(2) The case plan includes services to make and finalize a permanent placement for the child if efforts to reunify fail.

(3) Services to make and finalize a permanent placement for the child, if efforts to reunify fail, are provided concurrently with services to reunify the family.

(m) The implementation and operation of the amendments to subdivisions (c) and (g) enacted at the 2005–06 Regular Session shall be subject to appropriation through the budget process and by phase, as provided in Section 366.35.

SEC. 7. Section 366.22 of the Welfare and Institutions Code is amended to read:

366.22. (a) When a case has been continued pursuant to paragraph (1) or (2) of subdivision (g) of Section 366.21, the permanency review hearing shall occur within 18 months after the date the child was originally removed from the physical custody of his or her parent or legal guardian. After considering the

1 admissible and relevant evidence, the court shall order the return
2 of the child to the physical custody of his or her parent or legal
3 guardian unless the court finds, by a preponderance of the evidence,
4 that the return of the child to his or her parent or legal guardian
5 would create a substantial risk of detriment to the safety, protection,
6 or physical or emotional well-being of the child. The social worker
7 shall have the burden of establishing that detriment. At the
8 permanency review hearing, the court shall consider the criminal
9 history, obtained pursuant to paragraph (1) of subdivision (f) of
10 Section 16504.5, of the parent or legal guardian subsequent to the
11 child's removal, to the extent that the criminal record is
12 substantially related to the welfare of the child or the parent's or
13 legal guardian's ability to exercise custody and control regarding
14 his or her child, provided that the parent or legal guardian agreed
15 to submit fingerprint images to obtain criminal history information
16 as part of the case plan. The court shall also consider whether the
17 child can be returned to the custody of his or her parent who is
18 enrolled in a certified substance abuse treatment facility that allows
19 a dependent child to reside with his or her parent. The fact that the
20 parent is enrolled in a certified substance abuse treatment facility
21 shall not be, for that reason alone, prima facie evidence of
22 detriment. The failure of the parent or legal guardian to participate
23 regularly and make substantive progress in court-ordered treatment
24 programs shall be prima facie evidence that return would be
25 detrimental. In making its determination, the court shall review
26 and consider the social worker's report and recommendations and
27 the report and recommendations of any child advocate appointed
28 pursuant to Section 356.5; shall consider the efforts or progress,
29 or both, demonstrated by the parent or legal guardian and the extent
30 to which he or she availed himself or herself of services provided,
31 taking into account the particular barriers of an incarcerated or
32 institutionalized parent's or legal guardian's access to those
33 court-mandated services and ability to maintain contact with his
34 or her child; and shall make appropriate findings pursuant to
35 subdivision (a) of Section 366.

36 Whether or not the child is returned to his or her parent or legal
37 guardian, the court shall specify the factual basis for its decision.
38 If the child is not returned to a parent or legal guardian, the court
39 shall specify the factual basis for its conclusion that return would
40 be detrimental. If the child is not returned to his or her parent or

1 legal guardian, the court shall consider, and state for the record,
2 in-state and out-of-state options for the child's permanent
3 placement. If the child is placed out of the state, the court shall
4 make a determination whether the out-of-state placement continues
5 to be appropriate and in the best interests of the child.

6 Unless the conditions in subdivision (b) are met and the child is
7 not returned to a parent or legal guardian at the permanency review
8 hearing, the court shall order that a hearing be held pursuant to
9 Section 366.26 in order to determine whether adoption, or, in the
10 case of an Indian child, in consultation with the child's tribe, tribal
11 customary adoption, guardianship, *placement with a fit and willing*
12 *relative, or, if the child is 16 years of age or older and receiving specialized permanency services, as defined*
13 *in Section 11400, in another planned permanent living*
14 *arrangement* is the most appropriate plan for the child. On and
15 after January 1, 2012, a hearing pursuant to Section 366.26 shall
16 not be ordered if the child is a nonminor dependent, unless the
17 nonminor dependent is an Indian child, and tribal customary
18 adoption is recommended as the permanent plan. However, if the
19 court finds by clear and convincing evidence, based on the evidence
20 already presented to it, including a recommendation by the State
21 Department of Social Services when it is acting as an adoption
22 agency or by a county adoption agency, that there is a compelling
23 reason, as described in paragraph (5) of subdivision (g) of Section
24 366.21, for determining that a hearing held under Section 366.26
25 is not in the best interests of the child because the child is not a
26 proper subject for ~~adoption and adoption~~, *the child has no one*
27 *willing to accept legal guardianship, the child is not placed with*
28 *a fit and willing relative, and the child is 16 years of age or older*
29 *and receiving specialized permanency services, as defined in*
30 *Section 11400, the court may, only under these circumstances,*
31 *order that the child remain in-long-term foster care: another*
32 *planned permanent living arrangement. A child shall not be deemed*
33 *not a proper subject for adoption unless the child has received*
34 *specialized permanency services, as defined in Section 11400.* On
35 and after January 1, 2012, the nonminor dependent's legal status
36 as an adult is in and of itself a compelling reason not to hold a
37 hearing pursuant to Section 366.26. The court may order that a
38 nonminor dependent who otherwise is eligible pursuant to Section
39 11403 remain in a planned, permanent living arrangement. If the
40

1 court orders that a child who is 16 years of age or older remain
2 in ~~long-term foster care~~, *another planned permanent living*
3 *arrangement*, the court shall determine whether the agency has
4 made reasonable efforts to maintain the child's relationships with
5 individuals other than the child's siblings who are important to the
6 child, consistent with the child's best interests, and may make any
7 appropriate order to ensure that those relationships are maintained.
8 The hearing shall be held no later than 120 days from the date of
9 the permanency review hearing. The court shall also order
10 termination of reunification services to the parent or legal guardian.
11 The court shall continue to permit the parent or legal guardian to
12 visit the child unless it finds that visitation would be detrimental
13 to the child. The court shall determine whether reasonable services
14 have been offered or provided to the parent or legal guardian. For
15 purposes of this subdivision, evidence of any of the following
16 circumstances shall not, in and of themselves, be deemed a failure
17 to provide or offer reasonable services:

18 (1) The child has been placed with a foster family that is eligible
19 to adopt a child, or has been placed in a preadoptive home.

20 (2) The case plan includes services to make and finalize a
21 permanent placement for the child if efforts to reunify fail.

22 (3) Services to make and finalize a permanent placement for
23 the child, if efforts to reunify fail, are provided concurrently with
24 services to reunify the family.

25 (b) If the child is not returned to a parent or legal guardian at
26 the permanency review hearing and the court determines by clear
27 and convincing evidence that the best interests of the child would
28 be met by the provision of additional reunification services to a
29 parent or legal guardian who is making significant and consistent
30 progress in a court-ordered residential substance abuse treatment
31 program, or a parent recently discharged from incarceration,
32 institutionalization, or the custody of the United States Department
33 of Homeland Security and making significant and consistent
34 progress in establishing a safe home for the child's return, the court
35 may continue the case for up to six months for a subsequent
36 permanency review hearing, provided that the hearing shall occur
37 within 24 months of the date the child was originally taken from
38 the physical custody of his or her parent or legal guardian. The
39 court shall continue the case only if it finds that there is a
40 substantial probability that the child will be returned to the physical

1 custody of his or her parent or legal guardian and safely maintained
2 in the home within the extended period of time or that reasonable
3 services have not been provided to the parent or legal guardian.
4 For the purposes of this section, in order to find a substantial
5 probability that the child will be returned to the physical custody
6 of his or her parent or legal guardian and safely maintained in the
7 home within the extended period of time, the court shall be required
8 to find all of the following:

9 (1) That the parent or legal guardian has consistently and
10 regularly contacted and visited with the child.

11 (2) That the parent or legal guardian has made significant and
12 consistent progress in the prior 18 months in resolving problems
13 that led to the child's removal from the home.

14 (3) The parent or legal guardian has demonstrated the capacity
15 and ability both to complete the objectives of his or her substance
16 abuse treatment plan as evidenced by reports from a substance
17 abuse provider as applicable, or complete a treatment plan
18 postdischarge from incarceration, institutionalization, or detention,
19 or following deportation to his or her country of origin and his or
20 her return to the United States, and to provide for the child's safety,
21 protection, physical and emotional well-being, and special needs.

22 For purposes of this subdivision, the court's decision to continue
23 the case based on a finding or substantial probability that the child
24 will be returned to the physical custody of his or her parent or legal
25 guardian is a compelling reason for determining that a hearing
26 held pursuant to Section 366.26 is not in the best interests of the
27 child.

28 The court shall inform the parent or legal guardian that if the
29 child cannot be returned home by the subsequent permanency
30 review hearing, a proceeding pursuant to Section 366.26 may be
31 instituted. The court may not order that a hearing pursuant to
32 Section 366.26 be held unless there is clear and convincing
33 evidence that reasonable services have been provided or offered
34 to the parent or legal guardian.

35 (c) (1) Whenever a court orders that a hearing pursuant to
36 Section 366.26, including when a tribal customary adoption is
37 recommended, shall be held, it shall direct the agency supervising
38 the child and the county adoption agency, or the State Department
39 of Social Services when it is acting as an adoption agency, to
40 prepare an assessment that shall include:

1 (A) Current search efforts for an absent parent or parents.

2 (B) A review of the amount of and nature of any contact between
3 the child and his or her parents and other members of his or her
4 extended family since the time of placement. Although the
5 extended family of each child shall be reviewed on a case-by-case
6 basis, “extended family” for the purposes of this subparagraph
7 shall include, but not be limited to, the child’s siblings,
8 grandparents, aunts, and uncles.

9 (C) An evaluation of the child’s medical, developmental,
10 scholastic, mental, and emotional status.

11 (D) A preliminary assessment of the eligibility and commitment
12 of any identified prospective adoptive parent or legal guardian,
13 particularly the caretaker, to include a social history including
14 screening for criminal records and prior referrals for child abuse
15 or neglect, the capability to meet the child’s needs, and the
16 understanding of the legal and financial rights and responsibilities
17 of adoption and guardianship. If a proposed legal guardian is a
18 relative of the minor, the assessment shall also consider, but need
19 not be limited to, all of the factors specified in subdivision (a) of
20 Section 361.3 and Section 361.4.

21 (E) The relationship of the child to any identified prospective
22 adoptive parent or legal guardian, the duration and character of
23 the relationship, the degree of attachment of the child to the
24 prospective relative guardian or adoptive parent, the relative’s or
25 adoptive parent’s strong commitment to caring permanently for
26 the child, the motivation for seeking adoption or legal guardianship,
27 a statement from the child concerning placement and the adoption
28 or legal guardianship, and whether the child, if over 12 years of
29 age, has been consulted about the proposed relative guardianship
30 arrangements, unless the child’s age or physical, emotional, or
31 other condition precludes his or her meaningful response, and if
32 so, a description of the condition.

33 (F) An analysis of the likelihood that the child will be adopted
34 if parental rights are terminated.

35 (G) In the case of an Indian child, in addition to subparagraphs
36 (A) to (F), inclusive, an assessment of the likelihood that the child
37 will be adopted, when, in consultation with the child’s tribe, a
38 tribal customary adoption, as defined in Section 366.24, is
39 recommended. If tribal customary adoption is recommended, the
40 assessment shall include an analysis of both of the following:

1 (i) Whether tribal customary adoption would or would not be
2 detrimental to the Indian child and the reasons for reaching that
3 conclusion.

4 (ii) Whether the Indian child cannot or should not be returned
5 to the home of the Indian parent or Indian custodian and the reasons
6 for reaching that conclusion.

7 (2) (A) A relative caregiver's preference for legal guardianship
8 over adoption, if it is due to circumstances that do not include an
9 unwillingness to accept legal or financial responsibility for the
10 child, shall not constitute the sole basis for recommending removal
11 of the child from the relative caregiver for purposes of adoptive
12 placement.

13 (B) Regardless of his or her immigration status, a relative
14 caregiver shall be given information regarding the permanency
15 options of guardianship and adoption, including the long-term
16 benefits and consequences of each option, prior to establishing
17 legal guardianship or pursuing adoption. If the proposed permanent
18 plan is guardianship with an approved relative caregiver for a
19 minor eligible for aid under the Kin-GAP Program, as provided
20 for in Article 4.7 (commencing with Section 11385) of Chapter 2
21 of Part 3 of Division 9, the relative caregiver shall be informed
22 about the terms and conditions of the negotiated agreement
23 pursuant to Section 11387 and shall agree to its execution prior to
24 the hearing held pursuant to Section 366.26. A copy of the executed
25 negotiated agreement shall be attached to the assessment.

26 (d) This section shall become operative January 1, 1999. If at
27 any hearing held pursuant to Section 366.26, a legal guardianship
28 is established for the minor with an approved relative caregiver,
29 and juvenile court dependency is subsequently dismissed, the minor
30 shall be eligible for aid under the Kin-GAP Program, as provided
31 for in Article 4.5 (commencing with Section 11360) or Article 4.7
32 (commencing with Section 11385), as applicable, of Chapter 2 of
33 Part 3 of Division 9.

34 (e) As used in this section, "relative" means an adult who is
35 related to the child by blood, adoption, or affinity within the fifth
36 degree of kinship, including stepparents, stepsiblings, and all
37 relatives whose status is preceded by the words "great,"
38 "great-great," or "grand," or the spouse of any of those persons
39 even if the marriage was terminated by death or dissolution. If the
40 proposed permanent plan is guardianship with an approved relative

caregiver for a minor eligible for aid under the Kin-GAP Program, as provided for in Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of Division 9, “relative” as used in this section has the same meaning as “relative” as defined in subdivision (c) of Section 11391.

(f) The implementation and operation of the amendments to subdivision (a) enacted at the 2005–06 Regular Session shall be subject to appropriation through the budget process and by phase, as provided in Section 366.35.

SEC. 8. Section 366.25 of the Welfare and Institutions Code is amended to read:

366.25. (a) (1) When a case has been continued pursuant to subdivision (b) of Section 366.22, the subsequent permanency review hearing shall occur within 24 months after the date the child was originally removed from the physical custody of his or her parent or legal guardian. After considering the relevant and admissible evidence, the court shall order the return of the child to the physical custody of his or her parent or legal guardian unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent or legal guardian would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The social worker shall have the burden of establishing that detriment. At the subsequent permanency review hearing, the court shall consider the criminal history, obtained pursuant to paragraph (1) of subdivision (f) of Section 16504.5, of the parent or legal guardian subsequent to the child’s removal to the extent that the criminal record is substantially related to the welfare of the child or parent’s or legal guardian’s ability to exercise custody and control regarding his or her child provided that the parent or legal guardian agreed to submit fingerprint images to obtain criminal history information as part of the case plan. The court shall also consider whether the child can be returned to the custody of a parent who is enrolled in a certified substance abuse treatment facility that allows a dependent child to reside with his or her parent. The fact that the parent is enrolled in a certified substance abuse treatment facility shall not be, for that reason alone, prima facie evidence of detriment. The failure of the parent or legal guardian to participate regularly and make substantive progress in court-ordered treatment programs shall be prima facie evidence that return would be detrimental. In

1 making its determination, the court shall review and consider the
2 social worker's report and recommendations and the report and
3 recommendations of any child advocate appointed pursuant to
4 Section 356.5; shall consider the efforts or progress, or both,
5 demonstrated by the parent or legal guardian and the extent to
6 which he or she availed himself or herself of services provided;
7 and shall make appropriate findings pursuant to subdivision (a) of
8 Section 366.

9 (2) Whether or not the child is returned to his or her parent or
10 legal guardian, the court shall specify the factual basis for its
11 decision. If the child is not returned to a parent or legal guardian,
12 the court shall specify the factual basis for its conclusion that return
13 would be detrimental. If the child is not returned to his or her parent
14 or legal guardian, the court shall consider and state for the record,
15 in-state and out-of-state options for the child's permanent
16 placement. If the child is placed out of the state, the court shall
17 make a determination whether the out-of-state placement continues
18 to be appropriate and in the best interests of the child.

19 (3) If the child is not returned to a parent or legal guardian at
20 the subsequent permanency review hearing, the court shall order
21 that a hearing be held pursuant to Section 366.26 in order to
22 determine whether adoption, or, in the case of an Indian child,
23 tribal customary adoption, guardianship, *placement with a fit and*
24 *willing relative, or, if the child is 16 years of age or long-term*
25 *foster care older and receiving specialized permanency services,*
26 *in another planned permanent living arrangement,* is the most
27 appropriate plan for the child. On and after January 1, 2012, a
28 hearing pursuant to Section 366.26 shall not be ordered if the child
29 is a nonminor dependent, unless the nonminor dependent is an
30 Indian child and tribal customary adoption is recommended as the
31 permanent plan. However, if the court finds by clear and
32 convincing evidence, based on the evidence already presented to
33 it, including a recommendation by the State Department of Social
34 Services when it is acting as an adoption agency or by a county
35 adoption agency, that there is a compelling reason, as described
36 in paragraph (5) of subdivision (g) of Section 366.21, for
37 determining that a hearing held under Section 366.26 is not in the
38 best interest of the child because the child is not a proper subject
39 for adoption or, in the case of an Indian child, tribal customary
40 adoption, ~~and~~ has no one willing to accept legal guardianship, *is*

1 *not placed with a fit and willing relative, and the child is 16 years*
2 *of age or older and receiving specialized permanency services, as*
3 *defined in Section 11400, then the court may, only under these*
4 *circumstances, order that the child remain in long-term foster care.*
5 *another planned permanent living arrangement. A child shall not*
6 *be deemed not a proper subject for adoption or having no one*
7 *willing to accept legal guardianship unless the child has received*
8 *specialized permanency services, as defined in Section 11400. On*
9 *and after January 1, 2012, the nonminor dependent's legal status*
10 *as an adult is in and of itself a compelling reason not to hold a*
11 *hearing pursuant to Section 366.26. The court may order that a*
12 *nonminor dependent who otherwise is eligible pursuant to Section*
13 *11403 remain in a planned, permanent living arrangement. If the*
14 *court orders that a child who is 16 years of age or older remain*
15 *in long-term foster care, another planned permanent living*
16 *arrangement, the court shall determine whether the agency has*
17 *made reasonable efforts to maintain the child's relationships with*
18 *individuals other than the child's siblings who are important to the*
19 *child, consistent with the child's best interests, and may make any*
20 *appropriate order to ensure that those relationships are maintained.*
21 *The hearing shall be held no later than 120 days from the date of*
22 *the subsequent permanency review hearing. The court shall also*
23 *order termination of reunification services to the parent or legal*
24 *guardian. The court shall continue to permit the parent or legal*
25 *guardian to visit the child unless it finds that visitation would be*
26 *detrimental to the child. The court shall determine whether*
27 *reasonable services have been offered or provided to the parent or*
28 *legal guardian. For purposes of this paragraph, evidence of any of*
29 *the following circumstances shall not, in and of themselves, be*
30 *deemed a failure to provide or offer reasonable services:*

31 (A) The child has been placed with a foster family that is eligible
32 to adopt a child, or has been placed in a preadoptive home.

33 (B) The case plan includes services to make and finalize a
34 permanent placement for the child if efforts to reunify fail.

35 (C) Services to make and finalize a permanent placement for
36 the child, if efforts to reunify fail, are provided concurrently with
37 services to reunify the family.

38 (b) (1) Whenever a court orders that a hearing pursuant to
39 Section 366.26 shall be held, it shall direct the agency supervising
40 the child and the county adoption agency, or the State Department

1 of Social Services when it is acting as an adoption agency, to
2 prepare an assessment that shall include:

3 (A) Current search efforts for an absent parent or parents.

4 (B) A review of the amount of, and nature of, any contact
5 between the child and his or her parents and other members of his
6 or her extended family since the time of placement. Although the
7 extended family of each child shall be reviewed on a case-by-case
8 basis, “extended family” for the purposes of this paragraph shall
9 include, but not be limited to, the child’s siblings, grandparents,
10 aunts, and uncles.

11 (C) An evaluation of the child’s medical, developmental,
12 scholastic, mental, and emotional status.

13 (D) A preliminary assessment of the eligibility and commitment
14 of any identified prospective adoptive parent or legal guardian,
15 including a prospective tribal customary adoptive parent,
16 particularly the caretaker, to include a social history including
17 screening for criminal records and prior referrals for child abuse
18 or neglect, the capability to meet the child’s needs, and the
19 understanding of the legal and financial rights and responsibilities
20 of adoption and guardianship. If a proposed legal guardian is a
21 relative of the minor, the assessment shall also consider, but need
22 not be limited to, all of the factors specified in subdivision (a) of
23 Section 361.3 and in Section 361.4.

24 (E) The relationship of the child to any identified prospective
25 adoptive parent or legal guardian, including a prospective tribal
26 customary adoptive parent, the duration and character of the
27 relationship, the degree of attachment of the child to the prospective
28 relative guardian or adoptive parent, the relative’s or adoptive
29 parent’s strong commitment to caring permanently for the child,
30 the motivation for seeking adoption or legal guardianship, a
31 statement from the child concerning placement and the adoption
32 or legal guardianship, and whether the child, if over 12 years of
33 age, has been consulted about the proposed relative guardianship
34 arrangements, unless the child’s age or physical, emotional, or
35 other condition precludes his or her meaningful response, and if
36 so, a description of the condition.

37 (F) An analysis of the likelihood that the child will be adopted
38 if parental rights are terminated.

39 (G) In the case of an Indian child, in addition to subparagraphs

40 (A) to (F), inclusive, an assessment of the likelihood that the child

1 will be adopted, when, in consultation with the child's tribe, a
2 tribal customary adoption, as defined in Section 366.24, is
3 recommended. If tribal customary adoption is recommended, the
4 assessment shall include an analysis of both of the following:

5 (i) Whether tribal customary adoption would or would not be
6 detrimental to the Indian child and the reasons for reaching that
7 conclusion.

8 (ii) Whether the Indian child cannot or should not be returned
9 to the home of the Indian parent or Indian custodian and the reasons
10 for reaching that conclusion.

11 (2) (A) A relative caregiver's preference for legal guardianship
12 over adoption, if it is due to circumstances that do not include an
13 unwillingness to accept legal or financial responsibility for the
14 child, shall not constitute the sole basis for recommending removal
15 of the child from the relative caregiver for purposes of adoptive
16 placement.

17 (B) Regardless of his or her immigration status, a relative
18 caregiver shall be given information regarding the permanency
19 options of guardianship and adoption, including the long-term
20 benefits and consequences of each option, prior to establishing
21 legal guardianship or pursuing adoption. If the proposed permanent
22 plan is guardianship with an approved relative caregiver for a
23 minor eligible for aid under the Kin-GAP Program, as provided
24 for in Article 4.7 (commencing with Section 11385) of Chapter 2
25 of Part 3 of Division 9, the relative caregiver shall be informed
26 about the terms and conditions of the negotiated agreement
27 pursuant to Section 11387 and shall agree to its execution prior to
28 the hearing held pursuant to Section 366.26. A copy of the executed
29 negotiated agreement shall be attached to the assessment.

30 (c) If, at any hearing held pursuant to Section 366.26, a
31 guardianship is established for the minor with an approved relative
32 caregiver, and juvenile court dependency is subsequently
33 dismissed, the minor shall be eligible for aid under the Kin-GAP
34 Program, as provided for in Article 4.5 (commencing with Section
35 11360) or Article 4.7 (commencing with Section 11385), as
36 applicable, of Chapter 2 of Part 3 of Division 9.

37 (d) As used in this section, "relative" means an adult who is
38 related to the minor by blood, adoption, or affinity within the fifth
39 degree of kinship, including stepparents, stepsiblings, and all
40 relatives whose status is preceded by the words "great,"

1 “great-great,” or “grand,” or the spouse of any of those persons
2 even if the marriage was terminated by death or dissolution. If the
3 proposed permanent plan is guardianship with an approved relative
4 caregiver for a minor eligible for aid under the Kin-GAP Program,
5 as provided in Article 4.7 (commencing with Section 11385) of
6 Chapter 2 of Part 3 of Division 9, “relative” as used in this section
7 has the same meaning as “relative” as defined in subdivision (c)
8 of Section 11391.

9 (e) The implementation and operation of subdivision (a) enacted
10 at the 2005–06 Regular Session shall be subject to appropriation
11 through the budget process and by phase, as provided in Section
12 366.35.

13 *SEC. 9. Section 366.26 of the Welfare and Institutions Code*
14 *is amended to read:*

15 366.26. (a) This section applies to children who are adjudged
16 dependent children of the juvenile court pursuant to subdivision
17 (d) of Section 360. The procedures specified herein are the
18 exclusive procedures for conducting these hearings; Part 2
19 (commencing with Section 3020) of Division 8 of the Family Code
20 is not applicable to these proceedings. Section 8616.5 of the Family
21 Code is applicable and available to all dependent children meeting
22 the requirements of that section, if the postadoption contact
23 agreement has been entered into voluntarily. For children who are
24 adjudged dependent children of the juvenile court pursuant to
25 subdivision (d) of Section 360, this section and Sections 8604,
26 8605, 8606, and 8700 of the Family Code and Chapter 5
27 (commencing with Section 7660) of Part 3 of Division 12 of the
28 Family Code specify the exclusive procedures for permanently
29 terminating parental rights with regard to, or establishing legal
30 guardianship of, the child while the child is a dependent child of
31 the juvenile court.

32 (b) At the hearing, which shall be held in juvenile court for all
33 children who are dependents of the juvenile court, the court, in
34 order to provide stable, permanent homes for these children, shall
35 review the report as specified in Section 361.5, 366.21, 366.22, or
36 366.25, shall indicate that the court has read and considered it,
37 shall receive other evidence that the parties may present, and then
38 shall make findings and orders in the following order of preference:

39 (1) Terminate the rights of the parent or parents and order that
40 the child be placed for adoption and, upon the filing of a petition

1 for adoption in the juvenile court, order that a hearing be set. The
2 court shall proceed with the adoption after the appellate rights of
3 the natural parents have been exhausted.

4 (2) Order, without termination of parental rights, the plan of
5 tribal customary adoption, as described in Section 366.24, through
6 tribal custom, traditions, or law of the Indian child's tribe, and
7 upon the court affording the tribal customary adoption order full
8 faith and credit at the continued selection and implementation
9 hearing, order that a hearing be set pursuant to paragraph (2) of
10 subdivision (e).

11 (3) Appoint a relative or relatives with whom the child is
12 currently residing as legal guardian or guardians for the child, and
13 order that letters of guardianship issue.

14 (4) On making a finding under paragraph (3) of subdivision (c),
15 identify adoption or tribal customary adoption as the permanent
16 placement goal and order that efforts be made to locate an
17 appropriate adoptive family for the child within a period not to
18 exceed 180 days.

19 (5) Appoint a nonrelative legal guardian for the child and order
20 that letters of guardianship issue.

21 (6) *Order that the child be placed with a fit and willing relative,*
22 *subject to periodic review of the juvenile court under Section 366.3.*
23 *If the child is younger than 16 years of age and the court does not*
24 *take one of the actions specified in paragraphs (1) to (5), inclusive,*
25 *the court shall order that the child be placed with a fit and willing*
26 *relative and shall not order that the child remain in another*
27 *planned permanent living arrangement.*

28 ~~(6)~~

29 (7) ~~Order that the child be placed in long-term foster care; child,~~
30 ~~if 16 years of age or older and receiving specialized permanency~~
31 ~~services, as defined in Section 11400, in another planned~~
32 ~~permanent living arrangement, subject to the periodic review of~~
33 ~~the juvenile court under Section 366.3.~~

34 In choosing among the above alternatives the court shall proceed
35 pursuant to subdivision (c).

36 (c) (1) If the court determines, based on the assessment provided
37 as ordered under subdivision (i) of Section 366.21, subdivision (b)
38 of Section 366.22, or subdivision (b) of Section 366.25, and any
39 other relevant evidence, by a clear and convincing standard, that
40 it is likely the child will be adopted, the court shall terminate

1 parental rights and order the child placed for adoption. The fact
2 that the child is not yet placed in a preadoptive home nor with a
3 relative or foster family who is prepared to adopt the child, shall
4 not constitute a basis for the court to conclude that it is not likely
5 the child will be adopted. A finding under subdivision (b) or
6 paragraph (1) of subdivision (e) of Section 361.5 that reunification
7 services shall not be offered, under subdivision (e) of Section
8 366.21 that the whereabouts of a parent have been unknown for
9 six months or that the parent has failed to visit or contact the child
10 for six months, or that the parent has been convicted of a felony
11 indicating parental unfitness, or, under Section 366.21 or 366.22,
12 that the court has continued to remove the child from the custody
13 of the parent or guardian and has terminated reunification services,
14 shall constitute a sufficient basis for termination of parental rights.
15 Under these circumstances, the court shall terminate parental rights
16 unless either of the following applies:

17 (A) The child is living with a relative who is unable or unwilling
18 to adopt the child because of circumstances that do not include an
19 unwillingness to accept legal or financial responsibility for the
20 child, but who is willing and capable of providing the child with
21 a stable and permanent environment through legal guardianship,
22 and the removal of the child from the custody of his or her relative
23 would be detrimental to the emotional well-being of the child. For
24 purposes of an Indian child, “relative” shall include an “extended
25 family member,” as defined in the federal Indian Child Welfare
26 Act (25 U.S.C. Sec. 1903(2)).

27 (B) The court finds a compelling reason for determining that
28 termination would be detrimental to the child due to one or more
29 of the following circumstances:

30 (i) The parents have maintained regular visitation and contact
31 with the child and the child would benefit from continuing the
32 relationship.

33 (ii) A child 12 years of age or older objects to termination of
34 parental rights.

35 (iii) The child is placed in a residential treatment facility,
36 adoption is unlikely or undesirable, and continuation of parental
37 rights will not prevent finding the child a permanent family
38 placement if the parents cannot resume custody when residential
39 care is no longer needed.

1 (iv) The child is living with a foster parent or Indian custodian
2 who is unable or unwilling to adopt the child because of
3 exceptional circumstances, that do not include an unwillingness
4 to accept legal or financial responsibility for the child, but who is
5 willing and capable of providing the child with a stable and
6 permanent environment and the removal of the child from the
7 physical custody of his or her foster parent or Indian custodian
8 would be detrimental to the emotional well-being of the child. This
9 clause does not apply to any child who is either (I) under six years
10 of age or (II) a member of a sibling group where at least one child
11 is under six years of age and the siblings are, or should be,
12 permanently placed together.

13 (v) There would be substantial interference with a child's sibling
14 relationship, taking into consideration the nature and extent of the
15 relationship, including, but not limited to, whether the child was
16 raised with a sibling in the same home, whether the child shared
17 significant common experiences or has existing close and strong
18 bonds with a sibling, and whether ongoing contact is in the child's
19 best interest, including the child's long-term emotional interest,
20 as compared to the benefit of legal permanence through adoption.

21 (vi) The child is an Indian child and there is a compelling reason
22 for determining that termination of parental rights would not be
23 in the best interest of the child, including, but not limited to:

24 (I) Termination of parental rights would substantially interfere
25 with the child's connection to his or her tribal community or the
26 child's tribal membership rights.

27 (II) The child's tribe has identified guardianship, long-term
28 foster care with a fit and willing relative, tribal customary adoption,
29 or another planned permanent living arrangement for the child.

30 (III) The child is a nonminor dependent, and the nonminor and
31 the nonminor's tribe have identified tribal customary adoption for
32 the nonminor.

33 (C) For purposes of subparagraph (B), in the case of tribal
34 customary adoptions, Section 366.24 shall apply.

35 (D) If the court finds that termination of parental rights would
36 be detrimental to the child pursuant to clause (i), (ii), (iii), (iv),
37 (v), or (vi), it shall state its reasons in writing or on the record.

38 (2) The court shall not terminate parental rights if:

39 (A) At each hearing at which the court was required to consider
40 reasonable efforts or services, the court has found that reasonable

1 efforts were not made or that reasonable services were not offered
2 or provided.

3 (B) In the case of an Indian child:

4 (i) At the hearing terminating parental rights, the court has found
5 that active efforts were not made as required in Section 361.7.

6 (ii) The court does not make a determination at the hearing
7 terminating parental rights, supported by evidence beyond a
8 reasonable doubt, including testimony of one or more “qualified
9 expert witnesses” as defined in Section 224.6, that the continued
10 custody of the child by the parent is likely to result in serious
11 emotional or physical damage to the child.

12 (iii) The court has ordered tribal customary adoption pursuant
13 to Section 366.24.

14 (3) If the court finds that termination of parental rights would
15 not be detrimental to the child pursuant to paragraph (1) and that
16 the child has a probability for adoption but is difficult to place for
17 adoption and there is no identified or available prospective adoptive
18 parent, the court may identify adoption as the permanent placement
19 goal and without terminating parental rights, order that efforts be
20 made to locate an appropriate adoptive family for the child, within
21 the state or out of the state, within a period not to exceed 180 days.
22 During this 180-day period, the public agency responsible for
23 seeking adoptive parents for each child shall, to the extent possible,
24 ask each child who is 10 years of age or older, to identify any
25 individuals, other than the child’s siblings, who are important to
26 the child, in order to identify potential adoptive parents. The public
27 agency may ask any other child to provide that information, as
28 appropriate. During the 180-day period, the public agency shall,
29 to the extent possible, contact other private and public adoption
30 agencies regarding the availability of the child for adoption. During
31 the 180-day period, the public agency shall conduct the search for
32 adoptive parents in the same manner as prescribed for children in
33 Sections 8708 and 8709 of the Family Code. At the expiration of
34 this period, another hearing shall be held and the court shall
35 proceed pursuant to paragraph (1), (2), (3), (5), or (6) of subdivision
36 (b). For purposes of this section, a child may only be found to be
37 difficult to place for adoption if there is no identified or available
38 prospective adoptive parent for the child because of the child’s
39 membership in a sibling group, or the presence of a diagnosed

1 medical, physical, or mental handicap, or the child is seven years
2 of age or more.

3 (4) (A) If the court finds that adoption of the child or
4 termination of parental rights is not in the best interest of the child,
5 because one of the conditions in clause (i), (ii), (iii), (iv), (v), or
6 (vi) of subparagraph (B) of paragraph (1) or in paragraph (2)
7 applies, the court shall either order that the present caretakers or
8 other appropriate persons shall become legal guardians of the *child*,
9 *order placement with a fit and willing relative, order that a child*
10 ~~order that the child who is 16 years of age or older and receiving~~
11 ~~specialized permanency services, as defined in Section 11400,~~
12 ~~remain in long-term foster care, another planned permanent living~~
13 ~~arrangement, or, in the case of an Indian child, consider a tribal~~
14 ~~customary adoption pursuant to Section 366.24. Legal guardianship~~
15 ~~shall be considered before long-term foster care, placement with~~
16 ~~a fit and willing relative or in another planned permanent living~~
17 ~~arrangement, if it is in the best interests of the child and if a~~
18 ~~suitable guardian can be found. A child who is 10 years of age or~~
19 ~~older, shall be asked to identify any individuals, other than the~~
20 ~~child's siblings, who are important to the child, in order to identify~~
21 ~~potential guardians or, in the case of an Indian child, prospective~~
22 ~~tribal customary adoptive parents. The agency may ask any other~~
23 ~~child to provide that information, as appropriate.~~

24 (B) If the child is living with a relative or a foster parent who
25 is willing and capable of providing a stable and permanent
26 environment, but not willing to become a legal guardian, the child
27 shall not be removed from the home if the court finds the removal
28 would be seriously detrimental to the emotional well-being of the
29 child because the child has substantial psychological ties to the
30 relative caretaker or foster parents.

31 (C) The court shall also make an order for visitation with the
32 parents or guardians unless the court finds by a preponderance of
33 the evidence that the visitation would be detrimental to the physical
34 or emotional well-being of the child.

35 (5) If the court finds that the child should not be placed for
36 adoption, that legal guardianship shall not be established, and that
37 there are no suitable foster parents except exclusive-use homes
38 available to provide the child with a stable and permanent
39 environment, the court may order the care, custody, and control
40 of the child transferred from the county welfare department to a

1 licensed foster family agency. The court shall consider the written
2 recommendation of the county welfare director regarding the
3 suitability of the transfer. The transfer shall be subject to further
4 court orders.

5 The licensed foster family agency shall place the child in a
6 suitable licensed or exclusive-use home that has been certified by
7 the agency as meeting licensing standards. The licensed foster
8 family agency shall be responsible for supporting the child and
9 providing appropriate services to the child, including those services
10 ordered by the court. Responsibility for the support of the child
11 shall not, in and of itself, create liability on the part of the foster
12 family agency to third persons injured by the child. Those children
13 whose care, custody, and control are transferred to a foster family
14 agency shall not be eligible for foster care maintenance payments
15 or child welfare services, except for emergency response services
16 pursuant to Section 16504.

17 (d) The proceeding for the appointment of a guardian for a child
18 who is a dependent of the juvenile court shall be in the juvenile
19 court. If the court finds pursuant to this section that legal
20 guardianship is the appropriate permanent plan, it shall appoint
21 the legal guardian and issue letters of guardianship. The assessment
22 prepared pursuant to subdivision (g) of Section 361.5, subdivision
23 (i) of Section 366.21, subdivision (b) of Section 366.22, and
24 subdivision (b) of Section 366.25 shall be read and considered by
25 the court prior to the appointment, and this shall be reflected in
26 the minutes of the court. The person preparing the assessment may
27 be called and examined by any party to the proceeding.

28 (e) (1) The proceeding for the adoption of a child who is a
29 dependent of the juvenile court shall be in the juvenile court if the
30 court finds pursuant to this section that adoption is the appropriate
31 permanent plan and the petition for adoption is filed in the juvenile
32 court. Upon the filing of a petition for adoption, the juvenile court
33 shall order that an adoption hearing be set. The court shall proceed
34 with the adoption after the appellate rights of the natural parents
35 have been exhausted. The full report required by Section 8715 of
36 the Family Code shall be read and considered by the court prior
37 to the adoption and this shall be reflected in the minutes of the
38 court. The person preparing the report may be called and examined
39 by any party to the proceeding. It is the intent of the Legislature,
40 pursuant to this subdivision, to give potential adoptive parents the

1 option of filing in the juvenile court the petition for the adoption
2 of a child who is a dependent of the juvenile court. Nothing in this
3 section is intended to prevent the filing of a petition for adoption
4 in any other court as permitted by law, instead of in the juvenile
5 court.

6 (2) In the case of an Indian child, if the Indian child's tribe has
7 elected a permanent plan of tribal customary adoption, the court,
8 upon receiving the tribal customary adoption order will afford the
9 tribal customary adoption order full faith and credit to the same
10 extent that the court would afford full faith and credit to the public
11 acts, records, judicial proceedings, and judgments of any other
12 entity. Upon a determination that the tribal customary adoption
13 order may be afforded full faith and credit, consistent with Section
14 224.5, the court shall thereafter order a hearing to finalize the
15 adoption be set upon the filing of the adoption petition. The
16 prospective tribal customary adoptive parents and the child who
17 is the subject of the tribal customary adoption petition shall appear
18 before the court for the finalization hearing. The court shall
19 thereafter issue an order of adoption pursuant to Section 366.24.

20 (3) If a child who is the subject of a finalized tribal customary
21 adoption shows evidence of a developmental disability or mental
22 illness as a result of conditions existing before the tribal customary
23 adoption to the extent that the child cannot be relinquished to a
24 licensed adoption agency on the grounds that the child is considered
25 unadoptable, and of which condition the tribal customary adoptive
26 parent or parents had no knowledge or notice before the entry of
27 the tribal customary adoption order, a petition setting forth those
28 facts may be filed by the tribal customary adoptive parent or
29 parents with the juvenile court that granted the tribal customary
30 adoption petition. If these facts are proved to the satisfaction of
31 the juvenile court, it may make an order setting aside the tribal
32 customary adoption order. The set aside petition shall be filed
33 within five years of the issuance of the tribal customary adoption
34 order. The court clerk shall immediately notify the child's tribe
35 and the department in Sacramento of the petition within 60 days
36 after the notice of filing of the petition. The department shall file
37 a full report with the court and shall appear before the court for
38 the purpose of representing the child. Whenever a final decree of
39 tribal customary adoption has been vacated or set aside, the child
40 shall be returned to the custody of the county in which the

1 proceeding for tribal customary adoption was finalized. The
2 biological parent or parents of the child may petition for return of
3 custody. The disposition of the child after the court has entered an
4 order to set aside a tribal customary adoption shall include
5 consultation with the child's tribe.

6 (f) At the beginning of any proceeding pursuant to this section,
7 if the child or the parents are not being represented by previously
8 retained or appointed counsel, the court shall proceed as follows:

9 (1) In accordance with subdivision (c) of Section 317, if a child
10 before the court is without counsel, the court shall appoint counsel
11 unless the court finds that the child would not benefit from the
12 appointment of counsel. The court shall state on the record its
13 reasons for that finding.

14 (2) If a parent appears without counsel and is unable to afford
15 counsel, the court shall appoint counsel for the parent, unless this
16 representation is knowingly and intelligently waived. The same
17 counsel shall not be appointed to represent both the child and his
18 or her parent. The public defender or private counsel may be
19 appointed as counsel for the parent.

20 (3) Private counsel appointed under this section shall receive a
21 reasonable sum for compensation and expenses, the amount of
22 which shall be determined by the court. The amount shall be paid
23 by the real parties in interest, other than the child, in any
24 proportions the court deems just. However, if the court finds that
25 any of the real parties in interest are unable to afford counsel, the
26 amount shall be paid out of the general fund of the county.

27 (g) The court may continue the proceeding for a period of time
28 not to exceed 30 days as necessary to appoint counsel, and to
29 enable counsel to become acquainted with the case.

30 (h) (1) At all proceedings under this section, the court shall
31 consider the wishes of the child and shall act in the best interests
32 of the child.

33 (2) In accordance with Section 349, the child shall be present
34 in court if the child or the child's counsel so requests or the court
35 so orders. If the child is 10 years of age or older and is not present
36 at a hearing held pursuant to this section, the court shall determine
37 whether the minor was properly notified of his or her right to attend
38 the hearing and inquire as to the reason why the child is not present.

39 (3) (A) The testimony of the child may be taken in chambers
40 and outside the presence of the child's parent or parents, if the

1 child's parent or parents are represented by counsel, the counsel
2 is present, and any of the following circumstances exists:

3 (i) The court determines that testimony in chambers is necessary
4 to ensure truthful testimony.

5 (ii) The child is likely to be intimidated by a formal courtroom
6 setting.

7 (iii) The child is afraid to testify in front of his or her parent or
8 parents.

9 (B) After testimony in chambers, the parent or parents of the
10 child may elect to have the court reporter read back the testimony
11 or have the testimony summarized by counsel for the parent or
12 parents.

13 (C) The testimony of a child also may be taken in chambers and
14 outside the presence of the guardian or guardians of a child under
15 the circumstances specified in this subdivision.

16 (i) (1) Any order of the court permanently terminating parental
17 rights under this section shall be conclusive and binding upon the
18 child, upon the parent or parents and upon all other persons who
19 have been served with citation by publication or otherwise as
20 provided in this chapter. After making the order, the juvenile court
21 shall have no power to set aside, change, or modify it, except as
22 provided in paragraph (2), but nothing in this section shall be
23 construed to limit the right to appeal the order.

24 (2) A tribal customary adoption order evidencing that the Indian
25 child has been the subject of a tribal customary adoption shall be
26 afforded full faith and credit and shall have the same force and
27 effect as an order of adoption authorized by this section. The rights
28 and obligations of the parties as to the matters determined by the
29 Indian child's tribe shall be binding on all parties. A court shall
30 not order compliance with the order absent a finding that the party
31 seeking the enforcement participated, or attempted to participate,
32 in good faith, in family mediation services of the court or dispute
33 resolution through the tribe regarding the conflict, prior to the
34 filing of the enforcement action.

35 (3) A child who has not been adopted after the passage of at
36 least three years from the date the court terminated parental rights
37 and for whom the court has determined that adoption is no longer
38 the permanent plan may petition the juvenile court to reinstate
39 parental rights pursuant to the procedure prescribed by Section
40 388. The child may file the petition prior to the expiration of this

1 three-year period if the State Department of Social Services, county
2 adoption agency, or licensed adoption agency that is responsible
3 for custody and supervision of the child as described in subdivision
4 (j) and the child stipulate that the child is no longer likely to be
5 adopted. A child over 12 years of age shall sign the petition in the
6 absence of a showing of good cause as to why the child could not
7 do so. If it appears that the best interests of the child may be
8 promoted by reinstatement of parental rights, the court shall order
9 that a hearing be held and shall give prior notice, or cause prior
10 notice to be given, to the social worker or probation officer and to
11 the child's attorney of record, or, if there is no attorney of record
12 for the child, to the child, and the child's tribe, if applicable, by
13 means prescribed by subdivision (c) of Section 297. The court
14 shall order the child or the social worker or probation officer to
15 give prior notice of the hearing to the child's former parent or
16 parents whose parental rights were terminated in the manner
17 prescribed by subdivision (f) of Section 294 where the
18 recommendation is adoption. The juvenile court shall grant the
19 petition if it finds by clear and convincing evidence that the child
20 is no longer likely to be adopted and that reinstatement of parental
21 rights is in the child's best interest. If the court reinstates parental
22 rights over a child who is under 12 years of age and for whom the
23 new permanent plan will not be reunification with a parent or legal
24 guardian, the court shall specify the factual basis for its findings
25 that it is in the best interest of the child to reinstate parental rights.
26 This subdivision is intended to be retroactive and applies to any
27 child who is under the jurisdiction of the juvenile court at the time
28 of the hearing regardless of the date parental rights were terminated.
29 (j) If the court, by order or judgment, declares the child free
30 from the custody and control of both parents, or one parent if the
31 other does not have custody and control, or declares the child
32 eligible for tribal customary adoption, the court shall at the same
33 time order the child referred to the State Department of Social
34 Services, county adoption agency, or licensed adoption agency for
35 adoptive placement by the agency. However, except in the case
36 of a tribal customary adoption where there is no termination of
37 parental rights, a petition for adoption may not be granted until
38 the appellate rights of the natural parents have been exhausted.
39 The State Department of Social Services, county adoption agency,
40 or licensed adoption agency shall be responsible for the custody

1 and supervision of the child and shall be entitled to the exclusive
2 care and control of the child at all times until a petition for adoption
3 or tribal customary adoption is granted, except as specified in
4 subdivision (n). With the consent of the agency, the court may
5 appoint a guardian of the child, who shall serve until the child is
6 adopted.

7 (k) Notwithstanding any other ~~provision of law~~, the application
8 of any person who, as a relative caretaker or foster parent, has
9 cared for a dependent child for whom the court has approved a
10 permanent plan for adoption, or who has been freed for adoption,
11 shall be given preference with respect to that child over all other
12 applications for adoptive placement if the agency making the
13 placement determines that the child has substantial emotional ties
14 to the relative caretaker or foster parent and removal from the
15 relative caretaker or foster parent would be seriously detrimental
16 to the child's emotional well-being.

17 As used in this subdivision, "preference" means that the
18 application shall be processed and, if satisfactory, the family study
19 shall be completed before the processing of the application of any
20 other person for the adoptive placement of the child.

21 (l) (1) An order by the court that a hearing pursuant to this
22 section be held is not appealable at any time unless all of the
23 following apply:

24 (A) A petition for extraordinary writ review was filed in a timely
25 manner.

26 (B) The petition substantively addressed the specific issues to
27 be challenged and supported that challenge by an adequate record.

28 (C) The petition for extraordinary writ review was summarily
29 denied or otherwise not decided on the merits.

30 (2) Failure to file a petition for extraordinary writ review within
31 the period specified by rule, to substantively address the specific
32 issues challenged, or to support that challenge by an adequate
33 record shall preclude subsequent review by appeal of the findings
34 and orders made pursuant to this section.

35 (3) The Judicial Council shall adopt rules of court, effective
36 January 1, 1995, to ensure all of the following:

37 (A) A trial court, after issuance of an order directing a hearing
38 pursuant to this section be held, shall advise all parties of the
39 requirement of filing a petition for extraordinary writ review as
40 set forth in this subdivision in order to preserve any right to appeal

1 in these issues. This notice shall be made orally to a party if the
2 party is present at the time of the making of the order or by
3 first-class mail by the clerk of the court to the last known address
4 of a party not present at the time of the making of the order.

5 (B) The prompt transmittal of the records from the trial court
6 to the appellate court.

7 (C) That adequate time requirements for counsel and court
8 personnel exist to implement the objective of this subdivision.

9 (D) That the parent or guardian, or their trial counsel or other
10 counsel, is charged with the responsibility of filing a petition for
11 extraordinary writ relief pursuant to this subdivision.

12 (4) The intent of this subdivision is to do both of the following:

13 (A) Make every reasonable attempt to achieve a substantive and
14 meritorious review by the appellate court within the time specified
15 in Sections 366.21, 366.22, and 366.25 for holding a hearing
16 pursuant to this section.

17 (B) Encourage the appellate court to determine all writ petitions
18 filed pursuant to this subdivision on their merits.

19 (5) This subdivision shall only apply to cases in which an order
20 to set a hearing pursuant to this section is issued on or after January
21 1, 1995.

22 (m) Except for subdivision (j), this section shall also apply to
23 minors adjudged wards pursuant to Section 727.31.

24 (n) (1) Notwithstanding Section 8704 of the Family Code or
25 any other ~~provision of~~ law, the court, at a hearing held pursuant
26 to this section or anytime thereafter, may designate a current
27 caretaker as a prospective adoptive parent if the child has lived
28 with the caretaker for at least six months, the caretaker currently
29 expresses a commitment to adopt the child, and the caretaker has
30 taken at least one step to facilitate the adoption process. In
31 determining whether to make that designation, the court may take
32 into consideration whether the caretaker is listed in the preliminary
33 assessment prepared by the county department in accordance with
34 subdivision (i) of Section 366.21 as an appropriate person to be
35 considered as an adoptive parent for the child and the
36 recommendation of the State Department of Social Services, county
37 adoption agency, or licensed adoption agency.

38 (2) For purposes of this subdivision, steps to facilitate the
39 adoption process include, but are not limited to, the following:

40 (A) Applying for an adoption home study.

1 (B) Cooperating with an adoption home study.

2 (C) Being designated by the court or the adoption agency as the
3 adoptive family.

4 (D) Requesting de facto parent status.

5 (E) Signing an adoptive placement agreement.

6 (F) Engaging in discussions regarding a postadoption contact
7 agreement.

8 (G) Working to overcome any impediments that have been
9 identified by the State Department of Social Services, county
10 adoption agency, or licensed adoption agency.

11 (H) Attending classes required of prospective adoptive parents.

12 (3) Prior to a change in placement and as soon as possible after
13 a decision is made to remove a child from the home of a designated
14 prospective adoptive parent, the agency shall notify the court, the
15 designated prospective adoptive parent or the current caretaker, if
16 that caretaker would have met the threshold criteria to be
17 designated as a prospective adoptive parent pursuant to paragraph
18 (1) on the date of service of this notice, the child's attorney, and
19 the child, if the child is 10 years of age or older, of the proposal
20 in the manner described in Section 16010.6.

21 (A) Within five court days or seven calendar days, whichever
22 is longer, of the date of notification, the child, the child's attorney,
23 or the designated prospective adoptive parent may file a petition
24 with the court objecting to the proposal to remove the child, or the
25 court, upon its own motion, may set a hearing regarding the
26 proposal. The court may, for good cause, extend the filing period.
27 A caretaker who would have met the threshold criteria to be
28 designated as a prospective adoptive parent pursuant to paragraph
29 (1) on the date of service of the notice of proposed removal of the
30 child may file, together with the petition under this subparagraph,
31 a petition for an order designating the caretaker as a prospective
32 adoptive parent for purposes of this subdivision.

33 (B) A hearing ordered pursuant to this paragraph shall be held
34 as soon as possible and not later than five court days after the
35 petition is filed with the court or the court sets a hearing upon its
36 own motion, unless the court for good cause is unable to set the
37 matter for hearing five court days after the petition is filed, in
38 which case the court shall set the matter for hearing as soon as
39 possible. At the hearing, the court shall determine whether the
40 caretaker has met the threshold criteria to be designated as a

1 prospective adoptive parent pursuant to paragraph (1), and whether
2 the proposed removal of the child from the home of the designated
3 prospective adoptive parent is in the child's best interest, and the
4 child may not be removed from the home of the designated
5 prospective adoptive parent unless the court finds that removal is
6 in the child's best interest. If the court determines that the caretaker
7 did not meet the threshold criteria to be designated as a prospective
8 adoptive parent on the date of service of the notice of proposed
9 removal of the child, the petition objecting to the proposed removal
10 filed by the caretaker shall be dismissed. If the caretaker was
11 designated as a prospective adoptive parent prior to this hearing,
12 the court shall inquire into any progress made by the caretaker
13 towards the adoption of the child since the caretaker was designated
14 as a prospective adoptive parent.

15 (C) A determination by the court that the caretaker is a
16 designated prospective adoptive parent pursuant to paragraph (1)
17 or subparagraph (B) does not make the caretaker a party to the
18 dependency proceeding nor does it confer on the caretaker any
19 standing to object to any other action of the department, county
20 adoption agency, or licensed adoption agency, unless the caretaker
21 has been declared a de facto parent by the court prior to the notice
22 of removal served pursuant to paragraph (3).

23 (D) If a petition objecting to the proposal to remove the child
24 is not filed, and the court, upon its own motion, does not set a
25 hearing, the child may be removed from the home of the designated
26 prospective adoptive parent without a hearing.

27 (4) Notwithstanding paragraph (3), if the State Department of
28 Social Services, county adoption agency, or licensed adoption
29 agency determines that the child must be removed from the home
30 of the caretaker who is or may be a designated prospective adoptive
31 parent immediately, due to a risk of physical or emotional harm,
32 the agency may remove the child from that home and is not
33 required to provide notice prior to the removal. However, as soon
34 as possible and not longer than two court days after the removal,
35 the agency shall notify the court, the caretaker who is or may be
36 a designated prospective adoptive parent, the child's attorney, and
37 the child, if the child is 10 years of age or older, of the removal.
38 Within five court days or seven calendar days, whichever is longer,
39 of the date of notification of the removal, the child, the child's
40 attorney, or the caretaker who is or may be a designated prospective

1 adoptive parent may petition for, or the court on its own motion
2 may set, a noticed hearing pursuant to paragraph (3). The court
3 may, for good cause, extend the filing period.

4 (5) Except as provided in subdivision (b) of Section 366.28, an
5 order by the court issued after a hearing pursuant to this subdivision
6 shall not be appealable.

7 (6) Nothing in this section shall preclude a county child
8 protective services agency from fully investigating and responding
9 to alleged abuse or neglect of a child pursuant to Section 11165.5
10 of the Penal Code.

11 (7) The Judicial Council shall prepare forms to facilitate the
12 filing of the petitions described in this subdivision, which shall
13 become effective on January 1, 2006.

14 (o) The implementation and operation of the amendments to
15 paragraph (3) of subdivision (c) and subparagraph (A) of paragraph
16 (4) of subdivision (c) enacted at the 2005–06 Regular Session shall
17 be subject to appropriation through the budget process and by
18 phase, as provided in Section 366.35.

19 *SEC. 10. Section 366.27 of the Welfare and Institutions Code*
20 *is amended to read:*

21 366.27. (a) If a court, pursuant to paragraph (5) of subdivision
22 (g) of Section 366.21, Section 366.22, Section 366.25, or Section
23 366.26, orders the placement of a minor ~~in with a planned~~
24 ~~permanent living arrangement with a fit and willing~~ relative, the
25 court may authorize the relative to provide the same legal consent
26 for the minor's medical, surgical, and dental care as the custodial
27 parent of the minor.

28 (b) If a court orders the placement of a minor in ~~a another~~
29 planned permanent living arrangement with a foster parent, relative
30 caretaker, or nonrelative extended family member as defined in
31 Section 362.7, the court may limit the right of the minor's parent
32 or guardian to make educational decisions on the minor's behalf,
33 so that the foster parent, relative caretaker, or nonrelative extended
34 family member may exercise the educational consent duties
35 pursuant to Section 56055 of the Education Code.

36 (c) If a court orders the placement of a minor in ~~a another~~
37 planned permanent living arrangement, for purposes of this section,
38 a foster parent shall include a person, relative caretaker, or a
39 nonrelative extended family member as defined in Section 362.7,
40 who has been licensed or approved by the county welfare

1 department, county probation department, or the State Department
2 of Social Services, or has been designated by the court as a
3 specified placement.

4 *SEC. 11. Section 366.3 of the Welfare and Institutions Code*
5 *is amended to read:*

6 366.3. (a) If a juvenile court orders a permanent plan of
7 adoption, tribal customary adoption, adoption of a nonminor
8 dependent pursuant to subdivision (f) of Section 366.31, or legal
9 guardianship pursuant to Section 360 or 366.26, the court shall
10 retain jurisdiction over the child or nonminor dependent until the
11 child or nonminor dependent is adopted or the legal guardianship
12 is established, except as provided for in Section 366.29 or, on and
13 after January 1, 2012, Section 366.32. The status of the child or
14 nonminor dependent shall be reviewed every six months to ensure
15 that the adoption or legal guardianship is completed as
16 expeditiously as possible. When the adoption of the child or
17 nonminor dependent has been granted, or in the case of a tribal
18 customary adoption, when the tribal customary adoption order has
19 been afforded full faith and credit and the petition for adoption
20 has been granted, the court shall terminate its jurisdiction over the
21 child or nonminor dependent. Following establishment of a legal
22 guardianship, the court may continue jurisdiction over the child
23 as a dependent child of the juvenile court or may terminate its
24 dependency jurisdiction and retain jurisdiction over the child as a
25 ward of the legal guardianship, as authorized by Section 366.4. If,
26 however, a relative of the child is appointed the legal guardian of
27 the child and the child has been placed with the relative for at least
28 six months, the court shall, except if the relative guardian objects,
29 or upon a finding of exceptional circumstances, terminate its
30 dependency jurisdiction and retain jurisdiction over the child as a
31 ward of the guardianship, as authorized by Section 366.4.
32 Following a termination of parental rights, the parent or parents
33 shall not be a party to, or receive notice of, any subsequent
34 proceedings regarding the child.

35 (b) If the court has dismissed dependency jurisdiction following
36 the establishment of a legal guardianship, or no dependency
37 jurisdiction attached because of the granting of a legal guardianship
38 pursuant to Section 360, and the legal guardianship is subsequently
39 revoked or otherwise terminated, the county department of social
40 services or welfare department shall notify the juvenile court of

1 this fact. The court may vacate its previous order dismissing
2 dependency jurisdiction over the child.

3 Notwithstanding Section 1601 of the Probate Code, the
4 proceedings to terminate a legal guardianship that has been granted
5 pursuant to Section 360 or 366.26 shall be held either in the
6 juvenile court that retains jurisdiction over the guardianship as
7 authorized by Section 366.4 or the juvenile court in the county
8 where the guardian and child currently reside, based on the best
9 interests of the child, unless the termination is due to the
10 emancipation or adoption of the child. The juvenile court having
11 jurisdiction over the guardianship shall receive notice from the
12 court in which the petition is filed within five calendar days of the
13 filing. Prior to the hearing on a petition to terminate legal
14 guardianship pursuant to this subdivision, the court shall order the
15 county department of social services or welfare department having
16 jurisdiction or jointly with the county department where the
17 guardian and child currently reside to prepare a report, for the
18 court's consideration, that shall include an evaluation of whether
19 the child could safely remain in, or be returned to, the legal
20 guardian's home, without terminating the legal guardianship, if
21 services were provided to the child or legal guardian. If applicable,
22 the report shall also identify recommended family maintenance or
23 reunification services to maintain the legal guardianship and set
24 forth a plan for providing those services. If the petition to terminate
25 legal guardianship is granted, either juvenile court may resume
26 dependency jurisdiction over the child, and may order the county
27 department of social services or welfare department to develop a
28 new permanent plan, which shall be presented to the court within
29 60 days of the termination. If no dependency jurisdiction has
30 attached, the social worker shall make any investigation he or she
31 deems necessary to determine whether the child may be within the
32 jurisdiction of the juvenile court, as provided in Section 328.

33 Unless the parental rights of the child's parent or parents have
34 been terminated, they shall be notified that the legal guardianship
35 has been revoked or terminated and shall be entitled to participate
36 in the new permanency planning hearing. The court shall try to
37 place the child in another permanent placement. At the hearing,
38 the parents may be considered as custodians but the child shall not
39 be returned to the parent or parents unless they prove, by a
40 preponderance of the evidence, that reunification is the best

1 alternative for the child. The court may, if it is in the best interests
2 of the child, order that reunification services again be provided to
3 the parent or parents.

4 (c) If, following the establishment of a legal guardianship, the
5 county welfare department becomes aware of changed
6 circumstances that indicate adoption or, for an Indian child, tribal
7 customary adoption, may be an appropriate plan for the child, the
8 department shall so notify the court. The court may vacate its
9 previous order dismissing dependency jurisdiction over the child
10 and order that a hearing be held pursuant to Section 366.26 to
11 determine whether adoption or continued legal guardianship is the
12 most appropriate plan for the child. The hearing shall be held no
13 later than 120 days from the date of the order. If the court orders
14 that a hearing shall be held pursuant to Section 366.26, the court
15 shall direct the agency supervising the child and the county
16 adoption agency, or the State Department of Social Services if it
17 is acting as an adoption agency, to prepare an assessment under
18 subdivision (b) of Section 366.22.

19 (d) If the child or, on and after January 1, 2012, nonminor
20 dependent is in a placement other than the home of a legal guardian
21 and jurisdiction has not been dismissed, the status of the child shall
22 be reviewed at least every six months. The review of the status of
23 a child for whom the court has ordered parental rights terminated
24 and who has been ordered placed for adoption shall be conducted
25 by the court. The review of the status of a child or, on and after
26 January 1, 2012, nonminor dependent for whom the court has not
27 ordered parental rights terminated and who has not been ordered
28 placed for adoption may be conducted by the court or an
29 appropriate local agency. The court shall conduct the review under
30 the following circumstances:

31 (1) Upon the request of the child's parents or legal guardians.

32 (2) Upon the request of the child or, on and after January 1,
33 2012, nonminor dependent.

34 (3) It has been 12 months since a hearing held pursuant to
35 Section 366.26 or an order that the child remain in ~~long-term foster~~
36 ~~care~~ *are another planned permanent living arrangement* pursuant to
37 Section 366.21, 366.22, 366.25, 366.26, or subdivision (h).

38 (4) It has been 12 months since a review was conducted by the
39 court.

1 The court shall determine whether or not reasonable efforts to
2 make and finalize a permanent placement for the child have been
3 made.

4 (e) Except as provided in subdivision (g), at the review held
5 every six months pursuant to subdivision (d), the reviewing body
6 shall inquire about the progress being made to provide a permanent
7 home for the child, shall consider the safety of the child, and shall
8 determine all of the following:

9 (1) The continuing necessity for, and appropriateness of, the
10 placement.

11 (2) Identification of individuals other than the child's siblings
12 who are important to a child who is 10 years of age or older and
13 has been in out-of-home placement for six months or longer, and
14 actions necessary to maintain the child's relationship with those
15 individuals, provided that those relationships are in the best interest
16 of the child. The social worker shall ask every child who is 10
17 years of age or older and who has been in out-of-home placement
18 for six months or longer to identify individuals other than the
19 child's siblings who are important to the child, and may ask any
20 other child to provide that information, as appropriate. The social
21 worker shall make efforts to identify other individuals who are
22 important to the child, consistent with the child's best interests.

23 (3) The continuing appropriateness and extent of compliance
24 with the permanent plan for the child, including efforts to maintain
25 relationships between a child who is 10 years of age or older and
26 who has been in out-of-home placement for six months or longer
27 and individuals who are important to the child and efforts to
28 identify a prospective adoptive parent or legal guardian, including,
29 but not limited to, child-specific recruitment efforts and listing on
30 an adoption exchange.

31 (4) The extent of the agency's compliance with the child welfare
32 services case plan in making reasonable efforts either to return the
33 child to the safe home of the parent or to complete whatever steps
34 are necessary to finalize the permanent placement of the child. If
35 the reviewing body determines that a second period of reunification
36 services is in the child's best interests, and that there is a significant
37 likelihood of the child's return to a safe home due to changed
38 circumstances of the parent, pursuant to subdivision (f), the specific
39 reunification services required to effect the child's return to a safe
40 home shall be described.

(5) Whether there should be any limitation on the right of the parent or guardian to make educational decisions or developmental services decisions for the child. That limitation shall be specifically addressed in the court order and may not exceed what is necessary to protect the child. If the court specifically limits the right of the parent or guardian to make educational decisions or developmental services decisions for the child, the court shall at the same time appoint a responsible adult to make educational decisions or developmental services decisions for the child pursuant to Section 361.

(6) The adequacy of services provided to the child. The court shall consider the progress in providing the information and documents to the child, as described in Section 391. The court shall also consider the need for, and progress in providing, the assistance and services described in Section 391.

(7) The extent of progress the parents or legal guardians have made toward alleviating or mitigating the causes necessitating placement in foster care.

(8) The likely date by which the child may be returned to, and safely maintained in, the home, placed for adoption, legal guardianship, *with a fit and willing relative, or, if 16 years of age or older and receiving specialized permanency services, as defined in Section 11400*, in another planned permanent living arrangement, or, for an Indian child, in consultation with the child's tribe, placed for tribal customary adoption.

(9) Whether the child has any siblings under the court's jurisdiction, and, if any siblings exist, all of the following:

(A) The nature of the relationship between the child and his or her siblings.

(B) The appropriateness of developing or maintaining the sibling relationships pursuant to Section 16002.

(C) If the siblings are not placed together in the same home, why the siblings are not placed together and what efforts are being made to place the siblings together, or why those efforts are not appropriate.

(D) If the siblings are not placed together, all of the following:

(i) The frequency and nature of the visits between the siblings.

(ii) If there are visits between the siblings, whether the visits are supervised or unsupervised. If the visits are supervised, a

1 discussion of the reasons why the visits are supervised, and what
2 needs to be accomplished in order for the visits to be unsupervised.

3 (iii) If there are visits between the siblings, a description of the
4 location and length of the visits.

5 (iv) Any plan to increase visitation between the siblings.

6 (E) The impact of the sibling relationships on the child's
7 placement and planning for legal permanence.

8 The factors the court may consider as indicators of the nature of
9 the child's sibling relationships include, but are not limited to,
10 whether the siblings were raised together in the same home,
11 whether the siblings have shared significant common experiences
12 or have existing close and strong bonds, whether either sibling
13 expresses a desire to visit or live with his or her sibling, as
14 applicable, and whether ongoing contact is in the child's best
15 emotional interests.

16 (10) For a child who is 16 years of age or older, and, effective
17 January 1, 2012, for a nonminor dependent, the services needed
18 to assist the child or nonminor dependent to make the transition
19 from foster care to ~~independent living~~ *successful adulthood*.

20 The reviewing body shall determine whether or not reasonable
21 efforts to make and finalize a permanent placement for the child
22 have been made.

23 Each licensed foster family agency shall submit reports for each
24 child in its care, custody, and control to the court concerning the
25 continuing appropriateness and extent of compliance with the
26 child's permanent plan, the extent of compliance with the case
27 plan, and the type and adequacy of services provided to the child.

28 (f) Unless their parental rights have been permanently
29 terminated, the parent or parents of the child are entitled to receive
30 notice of, and participate in, those hearings. It shall be presumed
31 that continued care is in the best interests of the child, unless the
32 parent or parents prove, by a preponderance of the evidence, that
33 further efforts at reunification are the best alternative for the child.
34 In those cases, the court may order that further reunification
35 services to return the child to a safe home environment be provided
36 to the parent or parents up to a period of six months, and family
37 maintenance services, as needed for an additional six months in
38 order to return the child to a safe home environment. On and after
39 January 1, 2012, this subdivision shall not apply to the parents of
40 a nonminor dependent.

(g) At the review conducted by the court and held at least every six months, regarding a child for whom the court has ordered parental rights terminated and who has been ordered placed for adoption, or, for an Indian child for whom parental rights are not being terminated and a tribal customary adoption is being considered, the county welfare department shall prepare and present to the court a report describing the following:

(1) The child's present placement.

(2) The child's current physical, mental, emotional, and educational status.

(3) If the child has not been placed with a prospective adoptive parent or guardian, identification of individuals, other than the child's siblings, who are important to the child and actions necessary to maintain the child's relationship with those individuals, provided that those relationships are in the best interest of the child. The agency shall ask every child who is 10 years of age or older to identify any individuals who are important to him or her, consistent with the child's best interest, and may ask any child who is younger than 10 years of age to provide that information as appropriate. The agency shall make efforts to identify other individuals who are important to the child.

(4) Whether the child has been placed with a prospective adoptive parent or parents.

(5) Whether an adoptive placement agreement has been signed and filed.

(6) If the child has not been placed with a prospective adoptive parent or parents, the efforts made to identify an appropriate prospective adoptive parent or legal guardian, including, but not limited to, child-specific recruitment efforts and listing on an adoption exchange.

(7) Whether the final adoption order should include provisions for postadoptive sibling contact pursuant to Section 366.29.

(8) The progress of the search for an adoptive placement if one has not been identified.

(9) Any impediments to the adoption or the adoptive placement.

(10) The anticipated date by which the child will be adopted or placed in an adoptive home.

(11) The anticipated date by which an adoptive placement agreement will be signed.

1 (12) Recommendations for court orders that will assist in the
2 placement of the child for adoption or in the finalization of the
3 adoption.

4 The court shall determine whether or not reasonable efforts to
5 make and finalize a permanent placement for the child have been
6 made.

7 The court shall make appropriate orders to protect the stability
8 of the child and to facilitate and expedite the permanent placement
9 and adoption of the child.

10 (h) At the review held pursuant to subdivision (d) for a child in
11 ~~long-term foster care~~, *another planned permanent living*
12 *arrangement*, the court shall consider all permanency planning
13 options for the ~~child~~ *child*, including whether the child should be
14 returned to the home of the parent, placed for adoption, or, for an
15 Indian child, in consultation with the child's tribe, placed for tribal
16 customary adoption, or appointed a legal guardian, *placed with a*
17 *fit and willing relative*, or, if compelling reasons exist for finding
18 that none of the foregoing options are in the best interest of the
19 child, ~~whether the~~ *a child who is 16 years of age or older and*
20 *receiving specialized permanency services, as defined in Section*
21 *11400*, should be placed in another planned permanent living
22 arrangement. The court shall order that a hearing be held pursuant
23 to Section 366.26, unless it determines by clear and convincing
24 evidence that there is a compelling reason for determining that a
25 hearing held pursuant to Section 366.26 is not in the best interest
26 of the child because the child is being returned to the home of the
27 parent, the child is not a proper subject for adoption, or no one is
28 willing to accept legal guardianship. If the county adoption agency,
29 or the department when it is acting as an adoption agency, has
30 determined it is unlikely that the child will be adopted or one of
31 the conditions described in paragraph (1) of subdivision (c) of
32 Section 366.26 applies, that fact shall constitute a compelling
33 reason for purposes of this subdivision. Only upon that
34 determination may the court order that the child *be placed with a*
35 *fit and willing relative, or, if the child is 16 years of age or older*
36 *and receiving specialized permanency services, as defined in*
37 *Section 11400*, remain in ~~long-term foster care~~, *another planned*
38 *permanent living arrangement* without holding a hearing pursuant
39 to Section 366.26. *A child shall not be deemed unlikely to be*
40 *adopted or not a proper subject for adoption unless the child has*

1 *received specialized permanency services, as defined in Section*
2 *11400.* On and after January 1, 2012, the nonminor dependent's
3 legal status as an adult is in and of itself a compelling reason not
4 to hold a hearing pursuant to Section 366.26.

5 (i) If, as authorized by subdivision (h), the court orders a hearing
6 pursuant to Section 366.26, the court shall direct the agency
7 supervising the child and the county adoption agency, or the State
8 Department of Social Services when it is acting as an adoption
9 agency, to prepare an assessment as provided for in subdivision
10 (i) of Section 366.21 or subdivision (b) of Section 366.22. A
11 hearing held pursuant to Section 366.26 shall be held no later than
12 120 days from the date of the 12-month review at which it is
13 ordered, and at that hearing the court shall determine whether
14 adoption, tribal customary adoption, legal guardianship, *placement*
15 *with a fit and willing relative, or, if the child is 16 years of age or*
16 ~~long-term foster care~~ *older and receiving specialized permanency*
17 *services, as defined in Section 11400, another planned permanent*
18 *living arrangement* is the most appropriate plan for the child. On
19 and after January 1, 2012, a hearing pursuant to Section 366.26
20 shall not be ordered if the child is a nonminor dependent, unless
21 the nonminor dependent is an Indian child and tribal customary
22 adoption is recommended as the permanent plan. The court may
23 order that a nonminor dependent who otherwise is eligible pursuant
24 to Section 11403 remain in a planned, permanent living
25 arrangement. At the request of the nonminor dependent who has
26 an established relationship with an adult determined to be the
27 nonminor dependent's permanent connection, the court may order
28 adoption of the nonminor dependent pursuant to subdivision (f)
29 of Section 366.31.

30 (j) The implementation and operation of the amendments to
31 subdivision (e) enacted at the 2005–06 Regular Session shall be
32 subject to appropriation through the budget process and by phase,
33 as provided in Section 366.35.

34 (k) The reviews conducted pursuant to subdivision (a) or (d)
35 may be conducted earlier than every six months if the court
36 determines that an earlier review is in the best interests of the child
37 or as court rules prescribe.

38 *SEC. 12. Section 371 is added to the Welfare and Institutions*
39 *Code, immediately following Section 370, to read:*

1 371. (a) (1) *The placing agency shall, in any case in which a*
2 *dependent child or a ward of the juvenile court has as his or her*
3 *permanent plan another planned permanent living arrangement,*
4 *and may, in any case in which a dependent child or a ward of the*
5 *juvenile court is under 16 years of age and in an out-of-home*
6 *placement, do all of the following:*

7 (A) *Conduct intensive and ongoing efforts to return the child*
8 *home or secure a placement for the child with a fit and willing*
9 *relative, a legal guardian, or an adoptive parent. These efforts*
10 *shall include, at a minimum, the use of child-centered specialized*
11 *permanency services, as defined in Section 11400.*

12 (B) *Make every effort to identify relatives or nonrelative*
13 *extended family members, by, at a minimum, using technology,*
14 *reviewing a child's case file for information regarding relatives*
15 *or nonrelative extended family members, and using other tools,*
16 *including, but not limited to, genograms, family trees, and family*
17 *mapping.*

18 (C) *Make every effort to engage relatives or nonrelative*
19 *extended family members by, at a minimum, facilitating a meeting*
20 *with the child, relatives, nonrelative extended family members,*
21 *and other appropriate persons.*

22 (2) *The placing agency shall, in any case in which a dependent*
23 *child of, or a ward of, the juvenile court has as his or her*
24 *permanent plan another planned permanent living arrangement,*
25 *continue the efforts described in paragraph (1) until the child has*
26 *achieved permanency.*

27 (b) *The juvenile court shall, at every permanency hearing for*
28 *a dependent child or a ward of the juvenile court who has as his*
29 *or her permanent plan another planned permanent living*
30 *arrangement, and may, in any case in which a dependent child or*
31 *a ward of the juvenile court is under 16 years of age and in an*
32 *out-of-home placement, do all of the following:*

33 (1) *Review the intensive, ongoing, and, as of the date of the*
34 *hearing, unsuccessful efforts made by the placing agency to return*
35 *the child home or secure a placement for the child with a fit and*
36 *willing relative, a legal guardian, or an adoptive parent, including*
37 *through efforts that utilize child-centered specialized permanency*
38 *services. The review shall include a determination of all of the*
39 *following:*

1 (A) Whether any relatives or nonrelative extended family
2 members have been identified by the placing agency.

3 (B) Whether any relatives or nonrelative extended family
4 members have been or are currently being assessed by the placing
5 agency for placement of the child.

6 (C) The efforts made by the placing agency to find and assess
7 relatives or nonrelative extended family members for placement.

8 (D) The efforts of the placing agency to engage any located
9 relatives or nonrelative extended family members.

10 (E) Whether the placing agency has made intensive and ongoing
11 efforts to identify, engage, and place the child with a relative.

12 (F) Whether the placing agency made reasonable efforts to offer
13 specialized permanency services, as defined in Section 11400.

14 (2) Ask the mother, father, child, social worker or probation
15 officer, and any other appropriate person, of the identity of any
16 relatives, as defined in paragraph (2) of subdivision (f) of Section
17 319, or any nonrelative extended family member, as defined in
18 Section 362.7, available for placement or support of the child.

19 (3) Redetermine the appropriateness of placement by doing
20 both of the following:

21 (A) Asking the child about his or her desired permanency
22 outcome.

23 (B) Making a judicial determination explaining why, as of the
24 date of the hearing, another planned permanent living arrangement
25 is the best permanency plan for the child and provide compelling
26 reasons why it continues to not be in the best interests of the child
27 to do any of the following:

28 (i) Return home.

29 (ii) Be placed for adoption.

30 (iii) Be placed with a legal guardian.

31 (iv) Be placed with a fit and willing relative.

32 SEC. 13. Section 372 is added to the Welfare and Institutions
33 Code, immediately following Section 371, to read:

34 372. Commencing January 1, 2017, when the court has ordered
35 a dependent child or a ward of the juvenile court placed for
36 adoption or has appointed a relative or nonrelative legal guardian,
37 the social worker or probation officer shall provide the prospective
38 adoptive family or the guardian or guardians information, in
39 writing, regarding the importance of working with mental health
40 providers that have specialized adoption or permanency clinical

1 *training and experience if the family needs clinical support, and*
2 *a description of the desirable clinical expertise the family should*
3 *look for when choosing an adoption- or permanency-competent*
4 *mental health professional.*

5 SEC. 14. Section 706.5 of the Welfare and Institutions Code
6 is amended to read:

7 706.5. (a) If placement in foster care is recommended by the
8 probation officer, or ~~where~~ *when* the minor is already in foster care
9 placement or pending placement pursuant to an earlier order, the
10 social study prepared by the probation officer that is received into
11 evidence at disposition pursuant to Section 706 shall include a
12 case plan, as described in Section 706.6. If the court elects to hold
13 the first status review at the disposition hearing, the social study
14 shall also include, but not be limited to, the factual material
15 described in subdivision (c).

16 (b) If placement in foster care is not recommended by the
17 probation officer prior to disposition, but the court orders foster
18 care placement, the court shall order the probation officer to prepare
19 a case plan, as described in Section 706.6, within 30 days of the
20 placement order. The case plan shall be filed with the court.

21 (c) At each status review hearing, the social study shall include,
22 but not be limited to, an updated case plan as described in Section
23 706.6 and the following information:

24 (1) The continuing necessity for and appropriateness of the
25 placement.

26 (2) The extent of the probation department's compliance with
27 the case plan in making reasonable efforts to safely return the
28 minor to the minor's home or to complete whatever steps are
29 necessary to finalize the permanent placement of the minor.

30 (3) The extent of progress that has been made by the minor and
31 parent or guardian toward alleviating or mitigating the causes
32 necessitating placement in foster care.

33 (4) If the first permanency planning hearing has not yet occurred,
34 the social study shall include the likely date by which the minor
35 may be returned to and safely maintained in the home or placed
36 for adoption, appointed a legal guardian, permanently placed with
37 a fit and willing relative, *or, if the child is 16 years of age or older*
38 *and receiving specialized permanency services, as defined in*
39 *Section 11400*, referred to another planned permanent living
40 arrangement.

(5) Whether the minor has been or will be referred to educational services and what services the minor is receiving, including special education and related services if the minor has exceptional needs as described in Part 30 (commencing with Section 56000) of Division 4 of Title 2 of the Education Code or accommodations if the child has disabilities as described in Chapter 16 (commencing with Section 701) of Title 29 of the United States Code Annotated. The probation officer or child advocate shall solicit comments from the appropriate local education agency prior to completion of the social study.

(6) If the parent or guardian is unwilling or unable to participate in making an educational or developmental services decision for his or her child, or if other circumstances exist that compromise the ability of the parent or guardian to make educational or developmental services decisions for the child, the probation department shall consider whether the right of the parent or guardian to make educational or developmental services decisions for the minor should be limited. If the study makes that recommendation, it shall identify whether there is a responsible adult available to make educational or developmental services decisions for the minor pursuant to Section 726.

(d) At each permanency planning hearing, the social study shall include, but not be limited to, an updated case plan as described in Section 706.6, the factual material described in subdivision (c) of this section, and a recommended permanent plan for the minor.

SEC. 15. Section 706.6 of the Welfare and Institutions Code is amended to read:

706.6. A case plan prepared as required by Section 706.5 shall be submitted to the court. It shall either be attached to the social study or incorporated as a separate section within the social study. The case plan shall include, but not be limited to, the following information:

(a) A description of the circumstances that resulted in the minor being placed under the supervision of the probation department and in foster care.

(b) An assessment of the minor's and family's strengths and needs and the type of placement best equipped to meet those needs.

(c) A description of the type of home or institution in which the minor is to be placed, including a discussion of the safety and appropriateness of the placement. An appropriate placement is a

1 placement in the least restrictive, most family-like environment,
2 in closest proximity to the minor's home, that meets the minor's
3 best interests and special needs.

4 (d) Effective January 1, 2010, a case plan shall ensure the
5 educational stability of the child while in foster care and shall
6 include both of the following:

7 (1) Assurances that the placement takes into account the
8 appropriateness of the current educational setting and the proximity
9 to the school in which the child is enrolled at the time of placement.

10 (2) An assurance that the placement agency has coordinated
11 with appropriate local educational agencies to ensure that the child
12 remains in the school in which the child is enrolled at the time of
13 placement, or, if remaining in that school is not in the best interests
14 of the child, assurances by the placement agency and the local
15 educational agency to provide immediate and appropriate
16 enrollment in a new school and to provide all of the child's
17 educational records to the new school.

18 (e) Specific time-limited goals and related activities designed
19 to enable the safe return of the minor to his or her home, or in the
20 event that return to his or her home is not possible, activities
21 designed to result in permanent placement or emancipation.
22 Specific responsibility for carrying out the planned activities shall
23 be assigned to one or more of the following:

24 (1) The probation department.

25 (2) The minor's parent or parents or legal guardian or guardians,
26 as applicable.

27 (3) The minor.

28 (4) The foster parents or licensed agency providing foster care.

29 (f) The projected date of completion of the case plan objectives
30 and the date services will be terminated.

31 (g) (1) Scheduled visits between the minor and his or her family
32 and an explanation if no visits are made.

33 (2) Whether the child has other siblings, and, if any siblings
34 exist, all of the following:

35 (A) The nature of the relationship between the child and his or
36 her siblings.

37 (B) The appropriateness of developing or maintaining the sibling
38 relationships pursuant to Section 16002.

39 (C) If the siblings are not placed together in the same home,
40 why the siblings are not placed together and what efforts are being

1 made to place the siblings together, or why those efforts are not
2 appropriate.

3 (D) If the siblings are not placed together, all of the following:

4 (i) The frequency and nature of the visits between the siblings.

5 (ii) If there are visits between the siblings, whether the visits
6 are supervised or unsupervised. If the visits are supervised, a
7 discussion of the reasons why the visits are supervised, and what
8 needs to be accomplished in order for the visits to be unsupervised.

9 (iii) If there are visits between the siblings, a description of the
10 location and length of the visits.

11 (iv) Any plan to increase visitation between the siblings.

12 (E) The impact of the sibling relationships on the child's
13 placement and planning for legal permanence.

14 (F) The continuing need to suspend sibling interaction, if
15 applicable, pursuant to subdivision (c) of Section 16002.

16 (3) The factors the court may consider in making a determination
17 regarding the nature of the child's sibling relationships may
18 include, but are not limited to, whether the siblings were raised
19 together in the same home, whether the siblings have shared
20 significant common experiences or have existing close and strong
21 bonds, whether either sibling expresses a desire to visit or live with
22 his or her sibling, as applicable, and whether ongoing contact is
23 in the child's best emotional interests.

24 (h) (1) When placement is made in a foster family home, group
25 home, or other child care institution that is either a substantial
26 distance from the home of the minor's parent or legal guardian or
27 out-of-state, the case plan shall specify the reasons why the
28 placement is the most appropriate and is in the best interest of the
29 minor.

30 (2) When an out-of-state group home placement is recommended
31 or made, the case plan shall comply with Section 727.1 and Section
32 7911.1 of the Family Code. In addition, documentation of the
33 recommendation of the multidisciplinary team and the rationale
34 for this particular placement shall be included. The case plan shall
35 also address what in-state services or facilities were used or
36 considered and why they were not recommended.

37 (i) If applicable, efforts to make it possible to place siblings
38 together, unless it has been determined that placement together is
39 not in the best interest of one or more siblings.

1 (j) A schedule of visits between the minor and the probation
2 officer, including a monthly visitation schedule for those children
3 placed in group homes.

4 (k) Health and education information about the minor, school
5 records, immunizations, known medical problems, and any known
6 medications the minor may be taking, names and addresses of the
7 minor's health and educational providers; the minor's grade level
8 performance; assurances that the minor's placement in foster care
9 takes into account proximity to the school in which the minor was
10 enrolled at the time of placement; and other relevant health and
11 educational information.

12 (l) When out-of-home services are used and the goal is
13 reunification, the case plan shall describe the services that were
14 provided to prevent removal of the minor from the home, those
15 services to be provided to assist in reunification and the services
16 to be provided concurrently to achieve legal permanency if efforts
17 to reunify fail.

18 (m) The updated case plan prepared for a permanency planning
19 hearing shall include a recommendation for a permanent plan for
20 the minor. If, after considering reunification, adoptive placement,
21 legal guardianship, or permanent placement with a fit and willing
22 relative the probation officer recommends placement in ~~a~~ *another*
23 planned permanent living arrangement, the case plan shall include
24 documentation of a compelling reason or reasons why termination
25 of parental rights is not in the minor's best interest. For purposes
26 of this subdivision, a "compelling reason" shall have the same
27 meaning as in subdivision (c) of Section 727.3. *The probation*
28 *officer may only recommend another planned permanent living*
29 *arrangement if the child is 16 years of age or older and receiving*
30 *specialized permanency services, as defined in Section 11400.*

31 (n) Each updated case plan shall include a description of the
32 services that have been ~~provided~~ *provided, including, but not*
33 *limited to, specialized permanency services, as defined in Section*
34 *11400*, to the minor under the plan and an evaluation of the
35 appropriateness and effectiveness of those services.

36 (o) A statement that the parent or legal guardian, and the minor
37 have had an opportunity to participate in the development of the
38 case plan, to review the case plan, to sign the case plan, and to
39 receive a copy of the plan, or an explanation about why the parent,

1 legal guardian, or minor was not able to participate or sign the case
2 plan.

3 (p) For a minor in out-of-home care who is 16 years of age or
4 older, a written description of the programs and services, which
5 will help the minor prepare for the transition from foster care to
6 ~~independent living~~. *successful adulthood*.

7 (q) *In the case of a child for whom another planned permanent*
8 *living arrangement is the permanent plan, the case plan shall*
9 *document all of the following:*

10 (A) *The intensive, ongoing, and unsuccessful efforts made by*
11 *the agency to return the child home or secure a placement for the*
12 *child with a fit and willing relative, a legal guardian, or an*
13 *adoptive parent, including through the utilization of child-centered*
14 *specialized permanency services, as defined in Section 11400.*

15 (B) *The efforts made by the agency to identify relatives or*
16 *nonrelative extended family members through using technology,*
17 *reviewing the child's case file for information regarding relatives*
18 *or nonrelative extended family members, and using other tools,*
19 *including, but not limited to, genograms, family trees, and family*
20 *mapping.*

21 (C) *The efforts made by the agency to engage relatives or*
22 *nonrelative extended family members by facilitating a meeting*
23 *with the child or nonminor dependent, relatives, nonrelative*
24 *extended family members, and other appropriate persons.*

25 SEC. 16. *Section 727.2 of the Welfare and Institutions Code*
26 *is amended to read:*

27 727.2. The purpose of this section is to provide a means to
28 monitor the safety and well-being of every minor in foster care
29 who has been declared a ward of the juvenile court pursuant to
30 Section 601 or 602 and to ensure that everything reasonably
31 possible is done to facilitate the safe and early return of the minor
32 to his or her home or to establish an alternative permanent plan
33 for the minor.

34 (a) If the court orders the care, custody, and control of the minor
35 to be under the supervision of the probation officer for placement
36 pursuant to subdivision (a) of Section 727, the juvenile court shall
37 order the probation department to ensure the provision of
38 reunification services to facilitate the safe return of the minor to
39 his or her home or the permanent placement of the minor, and to

1 address the needs of the minor while in foster care, except as
2 provided in subdivision (b).

3 (b) Reunification services need not be provided to a parent or
4 legal guardian if the court finds by clear and convincing evidence
5 that one or more of the following is true:

6 (1) Reunification services were previously terminated for that
7 parent or guardian, pursuant to Section 366.21, 366.22, or 366.25,
8 or not offered, pursuant to subdivision (b) of Section 361.5, in
9 reference to the same minor.

10 (2) The parent has been convicted of any of the following:

11 (A) Murder of another child of the parent.

12 (B) Voluntary manslaughter of another child of the parent.

13 (C) Aiding or abetting, attempting, conspiring, or soliciting to
14 commit that murder or manslaughter described in subparagraph
15 (A) or (B).

16 (D) A felony assault that results in serious bodily injury to the
17 minor or another child of the parent.

18 (3) The parental rights of the parent with respect to a sibling
19 have been terminated involuntarily, and it is not in the best interest
20 of the minor to reunify with his or her parent or legal guardian.

21 If no reunification services are offered to the parent or guardian,
22 the permanency planning hearing, as described in Section 727.3,
23 shall occur within 30 days of the date of the hearing at which the
24 decision is made not to offer services.

25 (c) The status of every minor declared a ward and ordered to
26 be placed in foster care shall be reviewed by the court no less
27 frequently than once every six months. The six-month time periods
28 shall be calculated from the date the minor entered foster care, as
29 defined in paragraph (4) of subdivision (d) of Section 727.4. If the
30 court so elects, the court may declare the hearing at which the court
31 orders the care, custody, and control of the minor to be under the
32 supervision of the probation officer for foster care placement
33 pursuant to subdivision (a) of Section 727 at the first status review
34 hearing. It shall be the duty of the probation officer to prepare a
35 written social study report including an updated case plan, pursuant
36 to subdivision (b) of Section 706.5, and submit the report to the
37 court prior to each status review hearing, pursuant to subdivision
38 (b) of Section 727.4. The social study report shall include all
39 reports the probation officer relied upon in making his or her
40 recommendations.

(d) Prior to any status review hearing involving a minor in the physical custody of a community care facility or foster family agency, the facility or agency may provide the probation officer with a report containing its recommendations. Prior to any status review hearing involving the physical custody of a foster parent, relative caregiver, preadoptive parent, or legal guardian, that person may present to the court a report containing his or her recommendations. The court shall consider all reports and recommendations filed pursuant to subdivision (c) and pursuant to this subdivision.

(e) At any status review hearing prior to the first permanency planning hearing, the court shall consider the safety of the minor and make findings and orders ~~which~~ *that* determine the following:

(1) The continuing necessity for and appropriateness of the placement.

(2) The extent of the probation department's compliance with the case plan in making reasonable efforts to safely return the minor to the minor's home or to complete whatever steps are necessary to finalize the permanent placement of the minor.

(3) Whether there should be any limitation on the right of the parent or guardian to make educational decisions for the minor. That limitation shall be specifically addressed in the court order and may not exceed what is necessary to protect the minor. If the court specifically limits the right of the parent or guardian to make educational decisions for the minor, the court shall at the same time appoint a responsible adult to make educational decisions for the minor pursuant to Section 726.

(4) The extent of progress that has been made by the minor and parent or guardian toward alleviating or mitigating the causes necessitating placement in foster care.

(5) The likely date by which the minor may be returned to and safely maintained in the home or placed for adoption, appointed a legal guardian, permanently placed with a fit and willing relative *or, if 16 years of age or referred to older and receiving specialized permanency services, as defined in Section 11400, in another planned permanent living arrangement.*

(6) In the case of a minor who has reached 16 years of age, the court shall, in addition, determine the services needed to assist the minor to make the transition from foster care to ~~independent living.~~ *successful adulthood.*

1 The court shall make these determinations on a case-by-case
2 basis and reference in its written findings the probation officer's
3 report and any other evidence relied upon in reaching its decision.

4 (f) At any status review hearing prior to the first permanency
5 hearing, after considering the admissible and relevant evidence,
6 the court shall order return of the minor to the physical custody of
7 his or her parent or legal guardian unless the court finds, by a
8 preponderance of evidence, that the return of the minor to his or
9 her parent or legal guardian would create a substantial risk of
10 detriment to the safety, protection, or physical or emotional
11 well-being of the minor. The probation department shall have the
12 burden of establishing that detriment. In making its determination,
13 the court shall review and consider the social study report,
14 recommendations, and the case plan pursuant to subdivision (b)
15 of Section 706.5, the report and recommendations of any child
16 advocate appointed for the minor in the case, and any other reports
17 submitted to the court pursuant to subdivision (d), and shall
18 consider the efforts or progress, or both, demonstrated by the minor
19 and family and the extent to which the minor availed himself or
20 herself of the services provided.

21 (g) At all status review hearings subsequent to the first
22 permanency planning hearing, the court shall consider the safety
23 of the minor and make the findings and orders as described in
24 paragraphs (1) to (4), inclusive, and (6) of subdivision (e). The
25 court shall either make a finding that the previously ordered
26 permanent plan continues to be appropriate or shall order that a
27 new permanent plan be adopted pursuant to subdivision (b) of
28 Section 727.3. However, the court shall not order a permanent plan
29 of "return to the physical custody of the parent or legal guardian
30 after further reunification services are offered," as described in
31 paragraph (2) of subdivision (b) of Section 727.3.

32 (h) The status review hearings required by subdivision (c) may
33 be heard by an administrative review panel, provided that the
34 administrative panel meets all of the requirements listed in
35 subparagraph (B) of paragraph (7) of subdivision (d) of Section
36 727.4.

37 (i) (1) On and after January 1, 2012, at any status review hearing
38 at which a recommendation to terminate delinquency jurisdiction
39 is being considered, or at the status review hearing held closest to
40 the ward attaining 18 years of age, but no fewer than 90 days before

1 the ward's 18th birthday, the court shall consider whether to modify
2 its jurisdiction pursuant to Section 601 or 602 and assume transition
3 jurisdiction over the minor pursuant to Section 450. The probation
4 department shall address this issue in its report to the court and
5 make a recommendation as to whether transition jurisdiction is
6 appropriate for the minor.

7 (2) The court shall order the probation department or the minor's
8 attorney to submit an application to the child welfare services
9 department pursuant to Section 329 to declare the minor a
10 dependent of the court and modify its jurisdiction from delinquency
11 to dependency jurisdiction if it finds both of the following:

12 (A) The ward does not come within the description set forth in
13 Section 450, but jurisdiction as a ward may no longer be required.

14 (B) The ward appears to come within the description of Section
15 300 and cannot be returned home safely.

16 (3) The court shall set a hearing within 20 judicial days of the
17 date of its order issued pursuant to paragraph (2) to review the
18 decision of the child welfare services department and may either
19 affirm the decision not to file a petition pursuant to Section 300
20 or order the child welfare services department to file a petition
21 pursuant to Section 300.

22 (j) On and after January 1, 2012, if a review hearing pursuant
23 to this section is the last review hearing to be held before the minor
24 attains 18 years of age, the court shall ensure that the minor's
25 transitional independent living case plan includes a plan for the
26 minor to meet one or more of the criteria in paragraphs (1) to (5),
27 inclusive, of subdivision (b) of Section 11403, so that the minor
28 can become a nonminor dependent, and that the minor has been
29 informed of his or her right to decline to become a nonminor
30 dependent and to seek termination of the court's jurisdiction
31 pursuant to Section 607.2.

32 *SEC. 17. Section 727.3 of the Welfare and Institutions Code*
33 *is amended to read:*

34 727.3. The purpose of this section is to provide a means to
35 monitor the safety and well-being of every minor in foster care
36 who has been declared a ward of the juvenile court pursuant to
37 Section 601 or 602 and to ensure that everything reasonably
38 possible is done to facilitate the safe and early return of the minor
39 to his or her own home or to establish an alternative permanent
40 plan for the minor.

1 (a) (1) For every minor declared a ward and ordered to be
2 placed in foster care, a permanency planning hearing shall be
3 conducted within 12 months of the date the minor entered foster
4 care, as defined in paragraph (4) of subdivision (d) of Section
5 727.4. Subsequent permanency planning hearings shall be
6 conducted periodically, but no less frequently than once every 12
7 months thereafter during the period of placement. It shall be the
8 duty of the probation officer to prepare a written social study report
9 including an updated case plan and a recommendation for a
10 permanent plan, pursuant to subdivision (c) of Section 706.5, and
11 submit the report to the court prior to each permanency planning
12 hearing, pursuant to subdivision (b) of Section 727.4.

13 (2) Prior to any permanency planning hearing involving a minor
14 in the physical custody of a community care facility or foster family
15 agency, the facility or agency may file with the court a report
16 containing its recommendations, in addition to the probation
17 officer's social study. Prior to any permanency planning hearing
18 involving the physical custody of a foster parent, relative caregiver,
19 preadoptive parent, or legal guardian, that person may present to
20 the court a report containing his or her recommendations. The
21 court shall consider all reports and recommendations filed pursuant
22 to this subdivision.

23 (3) If the minor has a continuing involvement with his or her
24 parents or legal guardians, the parents or legal guardians shall be
25 involved in the planning for a permanent placement. The court
26 order placing the minor in a permanent placement shall include a
27 specification of the nature and frequency of visiting arrangements
28 with the parents or legal guardians.

29 (4) At each permanency planning hearing, the court shall order
30 a permanent plan for the minor, as described in subdivision (b).
31 The court shall also make findings, as described in subdivision (e)
32 of Section 727.2. In the case of a minor who has reached 16 years
33 of age or older, the court shall, in addition, determine the services
34 needed to assist the minor to make the transition from foster care
35 to ~~independent living~~ *successful adulthood*. The court shall make
36 all of these determinations on a case-by-case basis and make
37 reference to the probation officer's report, the case plan, or other
38 evidence relied upon in making its decisions.

39 (b) At all permanency planning hearings, the court shall
40 determine the permanent plan for the minor. The court shall order

1 one of the following permanent plans, which~~are~~, *are* in order of
2 priority:

3 (1) Return of the minor to the physical custody of the parent or
4 legal guardian. After considering the admissible and relevant
5 evidence, the court shall order the return of the minor to the
6 physical custody of his or her parent or legal guardian unless:

7 (A) Reunification services were not offered, pursuant to
8 subdivision (b) of Section 727.2.

9 (B) The court finds, by a preponderance of the evidence, that
10 the return of the minor to his or her parent or legal guardian would
11 create a substantial risk of detriment to the safety, protection, or
12 physical or emotional well-being of the minor. The probation
13 department shall have the burden of establishing that detriment.
14 In making its determination, the court shall review and consider
15 the social study report and recommendations pursuant to Section
16 706.5, the report and recommendations of any child advocate
17 appointed for the minor in the case, and any other reports submitted
18 pursuant to paragraph (2) of subdivision (a), and shall consider
19 the efforts or progress, or both, demonstrated by the minor and
20 family and the extent to which the minor availed himself or herself
21 of the services provided.

22 (2) Order that the permanent plan for the minor will be to return
23 the minor to the physical custody of the parent or legal guardian,
24 order further reunification services to be provided to the minor
25 and his or her parent or legal guardian for a period not to exceed
26 six months and continue the case for up to six months for a
27 subsequent permanency planning hearing, provided that the
28 subsequent hearing shall occur within 18 months of the date the
29 minor was originally taken from the physical custody of his or her
30 parent or legal guardian. The court shall continue the case only if
31 it finds that there is a substantial probability that the minor will be
32 returned to the physical custody of his or her parent or legal
33 guardian and safely maintained in the home within the extended
34 period of time or that reasonable services have not been provided
35 to the parent or guardian. For purposes of this section, in order to
36 find that there is a substantial probability that the minor will be
37 returned to the physical custody of his or her parent or legal
38 guardian, the court shall be required to find that the minor and his
39 or her parent or legal guardian have demonstrated the capacity and
40 ability to complete the objectives of the case plan.

1 The court shall inform the parent or legal guardian that if the
2 minor cannot be returned home by the next permanency planning
3 hearing, a proceeding pursuant to Section 727.31 may be initiated.

4 The court shall not continue the case for further reunification
5 services if it has been 18 months or more since the date the minor
6 was originally taken from the physical custody of his or her parent
7 or legal guardian.

8 (3) Identify adoption as the permanent plan and order that a
9 hearing be held within 120 days, pursuant to the procedures
10 described in Section 727.31. The court shall only set a hearing
11 pursuant to Section 727.31 if there is clear and convincing evidence
12 that reasonable services have been provided or offered to the
13 parents. When the court sets a hearing pursuant to Section 727.31,
14 it shall order that an adoption assessment report be prepared,
15 pursuant to subdivision (b) of Section 727.31.

16 (4) Order a legal guardianship, pursuant to procedures described
17 in subdivisions (c) to (f), inclusive, of Section 728.

18 (5) ~~Place~~ *Order that the minor be placed* with a fit and willing
19 relative. “Placement with a fit and willing relative” means placing
20 the minor with an appropriate relative on a permanent basis. When
21 a minor is placed with a fit and willing relative, the court may
22 authorize the relative to provide the same legal consent for the
23 minor’s medical, surgical, and dental care, and education as the
24 custodial parent of the minor.

25 (6) ~~Place~~ *Order that the minor be placed, if 16 years of age or*
26 *older and receiving specialized permanency services, as defined*
27 *in—*a Section 11400, *in another* planned permanent living
28 arrangement. A “planned permanent living arrangement” means
29 any permanent living arrangement described in Section 11402 and
30 not listed in paragraphs (1) to (5), inclusive, such as placement in
31 a specific, identified foster family home, program, or facility on
32 a permanent basis, or placement in a transitional housing placement
33 facility. When the court places a minor in—~~a~~ *another* planned
34 permanent living arrangement, the court shall specify the goal of
35 the placement, which may include, but shall not be limited to,
36 return home, ~~emancipation~~, guardianship, or permanent placement
37 with a *fit and willing* relative.

38 The court shall only order that ~~the~~ *a* minor *who is 16 years of*
39 *age or older and receiving specialized permanency services, as*
40 *defined in Section 11400*, remain in—~~a~~ *planned* *another* permanent

1 living arrangement if the court finds by clear and convincing
2 evidence, based upon the evidence already presented to it that there
3 is a compelling reason, as defined in subdivision (c), for
4 determining that a plan of termination of parental rights and
5 adoption is not in the best interest of the minor.

6 (c) A compelling reason for determining that a plan of
7 termination of parental rights and adoption is not in the best interest
8 of the minor is any of the following:

9 (1) Documentation by the probation department that adoption
10 is not in the best interest of the minor and is not an appropriate
11 permanency goal. That documentation may include, but is not
12 limited to, documentation that:

13 (A) The minor is 12 years of age or older and objects to
14 termination of parental rights.

15 (B) The minor is 17 years of age or older and specifically
16 requests that transition to ~~independent living~~ *successful adulthood*
17 with the identification of a caring adult to serve as a lifelong
18 connection be established as his or her permanent plan. On and
19 after January 1, 2012, this includes a minor who requests that his
20 or her transitional independent living case plan include
21 modification of his or her jurisdiction to that of dependency
22 jurisdiction pursuant to subdivision (b) of Section 607.2 or
23 subdivision (i) of Section 727.2, or to that of transition jurisdiction
24 pursuant to Section 450, in order to be eligible as a nonminor
25 dependent for the extended benefits pursuant to Section 11403.

26 (C) The parent or guardian and the minor have a significant
27 bond, but the parent or guardian is unable to care for the minor
28 because of an emotional or physical disability, and the minor's
29 caregiver has committed to raising the minor to the age of majority
30 and facilitating visitation with the disabled parent or guardian.

31 (D) The minor agrees to continued placement in a residential
32 treatment facility that provides services specifically designed to
33 address the minor's treatment needs, and the minor's needs could
34 not be served by a less restrictive placement.

35 The probation department's recommendation that adoption is
36 not in the best interest of the minor shall be based on the present
37 family circumstances of the minor and shall not preclude a different
38 recommendation at a later date if the minor's family circumstances
39 change.

1 (2) Documentation by the probation department that no grounds
2 exist to file for termination of parental rights.

3 (3) Documentation by the probation department that the minor
4 is an unaccompanied refugee minor, or there are international legal
5 obligations or foreign policy reasons that would preclude
6 terminating parental rights.

7 (4) A finding by the court that the probation department was
8 required to make reasonable efforts to reunify the minor with the
9 family pursuant to subdivision (a) of Section 727.2, and did not
10 make those efforts.

11 (5) Documentation by the probation department that the minor
12 is living with a relative who is unable or unwilling to adopt the
13 minor because of exceptional circumstances that do not include
14 an unwillingness to accept legal or financial responsibility for the
15 minor, but who is willing and capable of providing the minor with
16 a stable and permanent home environment, and the removal of the
17 minor from the physical custody of his or her relative would be
18 detrimental to the minor's emotional well-being.

19 (d) Nothing in this section shall be construed to limit the ability
20 of a parent to voluntarily relinquish his or her child to the State
21 Department of Social Services when it is acting as an adoption
22 agency or to a county adoption agency at any time while the minor
23 is a ward of the juvenile court if the department or county adoption
24 agency is willing to accept the relinquishment.

25 (e) Any change in the permanent plan of a minor placed with a
26 fit and willing relative or in ~~a~~ *another* planned permanent living
27 arrangement shall be made only by order of the court pursuant to
28 a Section 778 petition or at a regularly scheduled and noticed status
29 review hearing or permanency planning hearing. Any change in
30 the permanent plan of a minor placed in a guardianship shall be
31 made only by order of the court pursuant to a motion filed in
32 accordance with Section 728.

33 *SEC. 18. Section 727.45 is added to the Welfare and Institutions*
34 *Code, immediately following Section 727.4, to read:*

35 *727.45. The requirements described in Sections 371 and 372*
36 *shall apply to all wards who are placed in out-of-home care*
37 *pursuant to Section 727.2 or 727.3.*

38 *SEC. 19. Section 11400 of the Welfare and Institutions Code*
39 *is amended to read:*

1 11400. For purposes of this article, the following definitions
2 shall apply:

3 (a) “Aid to Families with Dependent Children-Foster Care
4 (AFDC-FC)” means the aid provided on behalf of needy children
5 in foster care under the terms of this division.

6 (b) “Case plan” means a written document that, at a minimum,
7 specifies the type of home in which the child shall be placed, the
8 safety of that home, and the appropriateness of that home to meet
9 the child’s needs. It shall also include the agency’s plan for
10 ensuring that the child receive proper care and protection in a safe
11 environment, and shall set forth the appropriate services to be
12 provided to the child, the child’s family, and the foster parents, in
13 order to meet the child’s needs while in foster care, and to reunify
14 the child with the child’s family. In addition, the plan shall specify
15 the services that will be provided or steps that will be taken to
16 facilitate an alternate permanent plan if reunification is not possible.

17 (c) “Certified family home” means a family residence certified
18 by a licensed foster family agency and issued a certificate of
19 approval by that agency as meeting licensing standards, and used
20 only by that foster family agency for placements.

21 (d) “Family home” means the family residence of a licensee in
22 which 24-hour care and supervision are provided for children.

23 (e) “Small family home” means any residential facility, in the
24 licensee’s family residence, which provides 24-hour care for six
25 or fewer foster children who have mental disorders or
26 developmental or physical disabilities and who require special care
27 and supervision as a result of their disabilities.

28 (f) “Foster care” means the 24-hour out-of-home care provided
29 to children whose own families are unable or unwilling to care for
30 them, and who are in need of temporary or long-term substitute
31 parenting.

32 (g) “Foster family agency” means any individual or organization
33 engaged in the recruiting, certifying, and training of, and providing
34 professional support to, foster parents, or in finding homes or other
35 places for placement of children for temporary or permanent care
36 who require that level of care as an alternative to a group home.
37 Private foster family agencies shall be organized and operated on
38 a nonprofit basis.

39 (h) “Group home” means a nondetention privately operated
40 residential home, organized and operated on a nonprofit basis only,

1 of any capacity, or a nondetention licensed residential care home
2 operated by the County of San Mateo with a capacity of up to 25
3 beds, that accepts children in need of care and supervision in a
4 group home, as defined by paragraph (13) of subdivision (a) of
5 Section 1502 of the Health and Safety Code.

6 (i) "Periodic review" means review of a child's status by the
7 juvenile court or by an administrative review panel, that shall
8 include a consideration of the safety of the child, a determination
9 of the continuing need for placement in foster care, evaluation of
10 the goals for the placement and the progress toward meeting these
11 goals, and development of a target date for the child's return home
12 or establishment of alternative permanent placement.

13 (j) "Permanency planning hearing" means a hearing conducted
14 by the juvenile court in which the child's future status, including
15 whether the child shall be returned home or another permanent
16 plan shall be developed, is determined.

17 (k) "Placement and care" refers to the responsibility for the
18 welfare of a child vested in an agency or organization by virtue of
19 the agency or organization having (1) been delegated care, custody,
20 and control of a child by the juvenile court, (2) taken responsibility,
21 pursuant to a relinquishment or termination of parental rights on
22 a child, (3) taken the responsibility of supervising a child detained
23 by the juvenile court pursuant to Section 319 or 636, or (4) signed
24 a voluntary placement agreement for the child's placement; or to
25 the responsibility designated to an individual by virtue of his or
26 her being appointed the child's legal guardian.

27 (l) "Preplacement preventive services" means services that are
28 designed to help children remain with their families by preventing
29 or eliminating the need for removal.

30 (m) "Relative" means an adult who is related to the child by
31 blood, adoption, or affinity within the fifth degree of kinship,
32 including stepparents, stepsiblings, and all relatives whose status
33 is preceded by the words "great," "great-great," or "grand" or the
34 spouse of any of these persons even if the marriage was terminated
35 by death or dissolution.

36 (n) "Nonrelative extended family member" means an adult
37 caregiver who has an established familial or mentoring relationship
38 with the child, as described in Section 362.7.

39 (o) "Voluntary placement" means an out-of-home placement
40 of a child by (1) the county welfare department, probation

1 department, or Indian tribe that has entered into an agreement
2 pursuant to Section 10553.1, after the parents or guardians have
3 requested the assistance of the county welfare department and have
4 signed a voluntary placement agreement; or (2) the county welfare
5 department licensed public or private adoption agency, or the
6 department acting as an adoption agency, after the parents have
7 requested the assistance of either the county welfare department,
8 the licensed public or private adoption agency, or the department
9 acting as an adoption agency for the purpose of adoption planning,
10 and have signed a voluntary placement agreement.

11 (p) “Voluntary placement agreement” means a written agreement
12 between either the county welfare department, probation
13 department, or Indian tribe that has entered into an agreement
14 pursuant to Section 10553.1, licensed public or private adoption
15 agency, or the department acting as an adoption agency, and the
16 parents or guardians of a child that specifies, at a minimum, the
17 following:

18 (1) The legal status of the child.

19 (2) The rights and obligations of the parents or guardians, the
20 child, and the agency in which the child is placed.

21 (q) “Original placement date” means the most recent date on
22 which the court detained a child and ordered an agency to be
23 responsible for supervising the child or the date on which an agency
24 assumed responsibility for a child due to termination of parental
25 rights, relinquishment, or voluntary placement.

26 (r) (1) “Transitional housing placement provider” means an
27 organization licensed by the State Department of Social Services
28 pursuant to Section 1559.110 of the Health and Safety Code, to
29 provide transitional housing to foster children at least 16 years of
30 age and not more than 18 years of age, and nonminor dependents,
31 as defined in subdivision (v). A transitional housing placement
32 provider shall be privately operated and organized on a nonprofit
33 basis.

34 (2) Prior to licensure, a provider shall obtain certification from
35 the applicable county, in accordance with Section 16522.1.

36 (s) “Transitional Housing Program-Plus” means a provider
37 certified by the applicable county, in accordance with subdivision
38 (c) of Section 16522, to provide transitional housing services to
39 former foster youth who have exited the foster care system on or
40 after their 18th birthday.

1 (t) “Whole family foster home” means a new or existing family
2 home, approved relative caregiver or nonrelative extended family
3 member’s home, the home of a nonrelated legal guardian whose
4 guardianship was established pursuant to Section 360 or 366.26,
5 certified family home, or a host family home placement of a
6 transitional housing placement provider, that provides foster care
7 for a minor or nonminor dependent parent and his or her child,
8 and is specifically recruited and trained to assist the minor or
9 nonminor dependent parent in developing the skills necessary to
10 provide a safe, stable, and permanent home for his or her child.
11 The child of the minor or nonminor dependent parent need not be
12 the subject of a petition filed pursuant to Section 300 to qualify
13 for placement in a whole family foster home.

14 (u) “Mutual agreement” means any of the following:

15 (1) A written voluntary agreement of consent for continued
16 placement and care in a supervised setting between a minor or, on
17 and after January 1, 2012, a nonminor dependent, and the county
18 welfare services or probation department or tribal agency
19 responsible for the foster care placement, that documents the
20 nonminor’s continued willingness to remain in supervised
21 out-of-home placement under the placement and care of the
22 responsible county, tribe, consortium of tribes, or tribal
23 organization that has entered into an agreement with the state
24 pursuant to Section 10553.1, remain under the jurisdiction of the
25 juvenile court as a nonminor dependent, and report any change of
26 circumstances relevant to continued eligibility for foster care
27 payments, and that documents the nonminor’s and social worker’s
28 or probation officer’s agreement to work together to facilitate
29 implementation of the mutually developed supervised placement
30 agreement and transitional independent living case plan.

31 (2) An agreement, as described in paragraph (1), between a
32 nonminor former dependent or ward in receipt of Kin-GAP
33 payments under Article 4.5 (commencing with Section 11360) or
34 Article 4.7 (commencing with Section 11385), and the agency
35 responsible for the Kin-GAP benefits, provided that the nonminor
36 former dependent or ward satisfies the conditions described in
37 Section 11403.01, or one or more of the conditions described in
38 paragraphs (1) to (5), inclusive, of subdivision (b) of Section
39 11403. For purposes of this paragraph and paragraph (3),

1 “nonminor former dependent or ward” has the same meaning as
2 described in subdivision (aa).

3 (3) An agreement, as described in paragraph (1), between a
4 nonminor former dependent or ward in receipt of AFDC-FC
5 payments under subdivision (e) or (f) of Section 11405 and the
6 agency responsible for the AFDC-FC benefits, provided that the
7 nonminor former dependent or ward described in subdivision (e)
8 of Section 11405 satisfies one or more of the conditions described
9 in paragraphs (1) to (5), inclusive, of subdivision (b) of Section
10 11403, and the nonminor described in subdivision (f) of Section
11 11405 satisfies the secondary school or equivalent training or
12 certificate program conditions described in that subdivision.

13 (v) “Nonminor dependent” means, on and after January 1, 2012,
14 a foster child, as described in Section 675(8)(B) of Title 42 of the
15 United States Code under the federal Social Security Act who is
16 a current dependent child or ward of the juvenile court, or who is
17 a nonminor under the transition jurisdiction of the juvenile court,
18 as described in Section 450, and who satisfies all of the following
19 criteria:

20 (1) He or she has attained 18 years of age while under an order
21 of foster care placement by the juvenile court, and is not more than
22 19 years of age on or after January 1, 2012, not more than 20 years
23 of age on or after January 1, 2013, or not more than 21 years of
24 age on or after January 1, 2014, and as described in Section
25 10103.5.

26 (2) He or she is in foster care under the placement and care
27 responsibility of the county welfare department, county probation
28 department, Indian tribe, consortium of tribes, or tribal organization
29 that entered into an agreement pursuant to Section 10553.1.

30 (3) He or she has a transitional independent living case plan
31 pursuant to Section 475(8) of the federal Social Security Act (42
32 U.S.C. Sec. 675(8)), as contained in the federal Fostering
33 Connections to Success and Increasing Adoptions Act of 2008
34 (Public Law 110-351), as described in Section 11403.

35 (w) “Supervised independent living placement” means, on and
36 after January 1, 2012, an independent supervised setting, as
37 specified in a nonminor dependent’s transitional independent living
38 case plan, in which the youth is living independently, pursuant to
39 Section 472(c)(2) of the Social Security Act (42 U.S.C. Sec.
40 672(c)(2)).

1 (x) “Supervised independent living setting,” pursuant to Section
2 472(c)(2) of the federal Social Security Act (42 U.S.C. Sec.
3 672(c)(2)), includes both a supervised independent living
4 placement, as defined in subdivision (w), and a residential housing
5 unit certified by the transitional housing placement provider
6 operating a Transitional Housing Placement-Plus Foster Care
7 program, as described in paragraph (2) of subdivision (a) of Section
8 16522.1.

9 (y) “Transitional independent living case plan” means, on or
10 after January 1, 2012, a child’s case plan submitted for the last
11 review hearing held before he or she reaches 18 years of age or
12 the nonminor dependent’s case plan, updated every six months,
13 that describes the goals and objectives of how the nonminor will
14 make progress in the transition to living independently and assume
15 incremental responsibility for adult decisionmaking, the
16 collaborative efforts between the nonminor and the social worker,
17 probation officer, or Indian tribal placing entity and the supportive
18 services as described in the transitional independent living plan
19 (TILP) to ensure active and meaningful participation in one or
20 more of the eligibility criteria described in paragraphs (1) to (5),
21 inclusive, of subdivision (b) of Section 11403, the nonminor’s
22 appropriate supervised placement setting, and the nonminor’s
23 permanent plan for transition to living independently, which
24 includes maintaining or obtaining permanent connections to caring
25 and committed adults, as set forth in paragraph ~~(16)~~ (17) of
26 subdivision (f) of Section 16501.1.

27 (z) “Voluntary reentry agreement” means a written voluntary
28 agreement between a former dependent child or ward or a former
29 nonminor dependent, who has had juvenile court jurisdiction
30 terminated pursuant to Section 391, 452, or 607.2, and the county
31 welfare or probation department or tribal placing entity that
32 documents the nonminor’s desire and willingness to reenter foster
33 care, to be placed in a supervised setting under the placement and
34 care responsibility of the placing agency, the nonminor’s desire,
35 willingness, and ability to immediately participate in one or more
36 of the conditions of paragraphs (1) to (5), inclusive, of subdivision
37 (b) of Section 11403, the nonminor’s agreement to work
38 collaboratively with the placing agency to develop his or her
39 transitional independent living case plan within 60 days of reentry,
40 the nonminor’s agreement to report any changes of circumstances

1 relevant to continued eligibility for foster care payments, and (1)
2 the nonminor's agreement to participate in the filing of a petition
3 for juvenile court jurisdiction as a nonminor dependent pursuant
4 to subdivision (e) of Section 388 within 15 judicial days of the
5 signing of the agreement and the placing agency's efforts and
6 supportive services to assist the nonminor in the reentry process,
7 or (2) if the nonminor meets the definition of a nonminor former
8 dependent or ward, as described in subdivision (aa), the nonminor's
9 agreement to return to the care and support of his or her former
10 juvenile court-appointed guardian and meet the eligibility criteria
11 for AFDC-FC pursuant to subdivision (e) of Section 11405.

12 (aa) "Nonminor former dependent or ward" means, on and after
13 January 1, 2012, either of the following:

14 (1) A nonminor who reached 18 years of age while subject to
15 an order for foster care placement, and for whom dependency,
16 delinquency, or transition jurisdiction has been terminated, and
17 who is still under the general jurisdiction of the court.

18 (2) A nonminor who is over 18 years of age and, while a minor,
19 was a dependent child or ward of the juvenile court when the
20 guardianship was established pursuant to Section 360 or 366.26,
21 or subdivision (d), of Section 728 and the juvenile court
22 dependency or wardship was dismissed following the establishment
23 of the guardianship.

24 (ab) "Runaway and homeless youth shelter" means a type of
25 group home, as defined in paragraph (14) of subdivision (a) of
26 Section 1502 of the Health and Safety Code, that is not an eligible
27 placement option under Sections 319, 361.2, 450, and 727, and
28 that is not eligible for AFDC-FC funding pursuant to subdivision
29 (c) of Section 11402 or Section 11462.

30 (ac) "Transition dependent" is a minor between 17 years and
31 five months and 18 years of age who is subject to the court's
32 transition jurisdiction under Section 450.

33 (ad) *"Child-centered specialized permanency services" or*
34 *"specialized permanency services" are services that address the*
35 *child's history of trauma, separation and loss, need for mental*
36 *health services, or a combination of those services, all of which*
37 *are designed to ameliorate impairments in significant areas of life*
38 *functioning that may reduce the child's ability to achieve a*
39 *permanent family. These services shall utilize family finding and*
40 *engagement, including, but not limited to, using search technology*

1 *and social media to locate family members, and child-specific*
2 *recruitment, as needed, to assist the child in achieving a permanent*
3 *family through reunification, adoption, legal guardianship, or*
4 *other lifelong connections to caring adults, including at least one*
5 *adult who will provide a permanent, parent-like relationship for*
6 *that child.*

7 *SEC. 20. Section 16501.1 of the Welfare and Institutions Code*
8 *is amended to read:*

9 16501.1. (a) (1) The Legislature finds and declares that the
10 foundation and central unifying tool in child welfare services is
11 the case plan.

12 (2) The Legislature further finds and declares that a case plan
13 ensures that the child receives protection and safe and proper care
14 and case management, and that services are provided to the child
15 and parents or other caretakers, as appropriate, in order to improve
16 conditions in the parent's home, to facilitate the safe return of the
17 child to a safe home or the permanent placement of the child, and
18 to address the needs of the child while in foster care.

19 (b) (1) A case plan shall be based upon the principles of this
20 section and shall document that a preplacement assessment of the
21 service needs of the child and family, and preplacement preventive
22 services, have been provided, and that reasonable efforts to prevent
23 out-of-home placement have been made.

24 (2) In determining the reasonable services to be offered or
25 provided, the child's health and safety shall be the paramount
26 concerns.

27 (3) Upon a determination pursuant to paragraph (1) of
28 subdivision (e) of Section 361.5 that reasonable services will be
29 offered to a parent who is incarcerated in a county jail or state
30 prison, detained by the United States Department of Homeland
31 Security, or deported to his or her country of origin, the case plan
32 shall include information, to the extent possible, about a parent's
33 incarceration in a county jail or the state prison, detention by the
34 United States Department of Homeland Security, or deportation
35 during the time that a minor child of that parent is involved in
36 dependency care.

37 (4) Reasonable services shall be offered or provided to make it
38 possible for a child to return to a safe home environment, unless,
39 pursuant to subdivisions (b) and (e) of Section 361.5, the court
40 determines that reunification services shall not be provided.

(5) If reasonable services are not ordered, or are terminated, reasonable efforts shall be made to place the child in a timely manner in accordance with the permanent plan and to complete all steps necessary to finalize the permanent placement of the child.

(c) (1) If out-of-home placement is used to attain case plan goals, the case plan shall include a description of the type of home or institution in which the child is to be placed, and the reasons for that placement decision. The decision regarding choice of placement shall be based upon selection of a safe setting that is the least restrictive or most familylike and the most appropriate setting that is available and in close proximity to the parent's home, proximity to the child's school, and consistent with the selection of the environment best suited to meet the child's special needs and best interests. The selection shall consider, in order of priority, placement with relatives, nonrelated extended family members, tribal members, and foster family homes, certified homes of foster family agencies, intensive treatment or multidimensional treatment foster care homes, group care placements, such as group homes and community treatment facilities, and residential treatment pursuant to Section 7950 of the Family Code.

(2) If a group care placement is selected for a child, the case plan shall indicate the needs of the child that necessitate this placement, the plan for transitioning the child to a less restrictive environment, and the projected timeline by which the child will be transitioned to a less restrictive environment. This section of the case plan shall be reviewed and updated at least semiannually.

(3) On or after January 1, 2012, for a nonminor dependent, as defined in subdivision (v) of Section 11400, who is receiving AFDC-FC benefits up to 21 years of age pursuant to Section 11403, in addition to the above requirements, the selection of the placement, including a supervised independent living placement, as described in subdivision (w) of Section 11400, shall also be based upon the developmental needs of young adults by providing opportunities to have incremental responsibilities that prepare a nonminor dependent to transition to ~~independent living~~. *successful adulthood*. If admission to, or continuation in, a group home placement is being considered for a nonminor dependent, the group home placement approval decision shall include a youth-driven, team-based case planning process, as defined by the department, in consultation with stakeholders. The case plan shall consider the

1 full range of placement options, and shall specify why admission
2 to, or continuation in, a group home placement is the best
3 alternative available at the time to meet the special needs or
4 well-being of the nonminor dependent, and how the placement
5 will contribute to the nonminor dependent's transition to
6 ~~independent living.~~ *successful adulthood*. The case plan shall
7 specify the treatment strategies that will be used to prepare the
8 nonminor dependent for discharge to a less restrictive and more
9 familylike setting, including a target date for discharge from the
10 group home placement. The placement shall be reviewed and
11 updated on a regular, periodic basis to ensure that continuation in
12 the group home remains in the best interests of the nonminor
13 dependent and that progress is being made in achieving case plan
14 goals leading to ~~independent living.~~ *successful adulthood*. The
15 group home placement planning process shall begin as soon as it
16 becomes clear to the county welfare department or probation office
17 that a foster child in group home placement is likely to remain in
18 group home placement on his or her 18th birthday, in order to
19 expedite the transition to a less restrictive and more familylike
20 setting if he or she becomes a nonminor dependent. The case
21 planning process shall include informing the youth of all of his or
22 her options, including, but not limited to, admission to or
23 continuation in a group home placement. Consideration for
24 continuation of existing group home placement for a nonminor
25 dependent under 19 years of age may include the need to stay in
26 the same placement in order to complete high school. After a
27 nonminor dependent either completes high school or attains his or
28 her 19th birthday, whichever is earlier, continuation in or admission
29 to a group home is prohibited unless the nonminor dependent
30 satisfies the conditions of paragraph (5) of subdivision (b) of
31 Section 11403, and group home placement functions as a short-term
32 transition to the appropriate system of care. Treatment services
33 provided by the group home placement to the nonminor dependent
34 to alleviate or ameliorate the medical condition, as described in
35 paragraph (5) of subdivision (b) of Section 11403, shall not
36 constitute the sole basis to disqualify a nonminor dependent from
37 the group home placement.

38 (4) In addition to the requirements of paragraphs (1) to (3),
39 inclusive, and taking into account other statutory considerations
40 regarding placement, the selection of the most appropriate home

1 that will meet the child's special needs and best interests shall also
2 promote educational stability by taking into consideration
3 proximity to the child's school of origin, and school attendance
4 area, the number of school transfers the child has previously
5 experienced, and the child's school matriculation schedule, in
6 addition to other indicators of educational stability that the
7 Legislature hereby encourages the State Department of Social
8 Services and the State Department of Education to develop.

9 (d) A written case plan shall be completed within a maximum
10 of 60 days of the initial removal of the child or of the in-person
11 response required under subdivision (f) of Section 16501 if the
12 child has not been removed from his or her home, or by the date
13 of the dispositional hearing pursuant to Section 358, whichever
14 occurs first. The case plan shall be updated, as the service needs
15 of the child and family dictate. At a minimum, the case plan shall
16 be updated in conjunction with each status review hearing
17 conducted pursuant to Sections 364, 366, 366.3, and 366.31, and
18 the hearing conducted pursuant to Section 366.26, but no less
19 frequently than once every six months. Each updated case plan
20 shall include a description of the services that have been provided
21 to the child under the ~~plan~~ *plan, including, but not limited to,*
22 *child-centered specialized permanency services, as defined in*
23 *Section 11400*, and an evaluation of the appropriateness and
24 effectiveness of those services.

25 (1) It is the intent of the Legislature that extending the maximum
26 time available for preparing a written case plan from 30 to 60 days
27 will afford caseworkers time to actively engage families, and to
28 solicit and integrate into the case plan the input of the child and
29 the child's family, as well as the input of relatives and other
30 interested parties.

31 (2) The extension of the maximum time available for preparing
32 a written case plan from the 30 to 60 days shall be effective 90
33 days after the date that the department gives counties written notice
34 that necessary changes have been made to the Child Welfare
35 Services Case Management System to account for the 60-day
36 timeframe for preparing a written case plan.

37 (e) The child welfare services case plan shall be comprehensive
38 enough to meet the juvenile court dependency proceedings
39 requirements pursuant to Article 6 (commencing with Section 300)
40 of Chapter 2 of Part 1 of Division 2.

1 (f) The case plan shall be developed as follows:

2 (1) The case plan shall be based upon an assessment of the
3 circumstances that required child welfare services intervention.
4 The child shall be involved in developing the case plan as age and
5 developmentally appropriate.

6 (2) The case plan shall identify specific goals and the
7 appropriateness of the planned services in meeting those goals.

8 (3) The case plan shall identify the original allegations of abuse
9 or neglect, as defined in Article 2.5 (commencing with Section
10 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code, or the
11 conditions cited as the basis for declaring the child a dependent of
12 the court pursuant to Section 300, or all of these, and the other
13 precipitating incidents that led to child welfare services
14 intervention.

15 (4) The case plan shall include a description of the schedule of
16 the placement agency contacts with the child and the family or
17 other caretakers. The frequency of these contacts shall be in
18 accordance with regulations adopted by the State Department of
19 Social Services. If the child has been placed in foster care out of
20 state, the county social worker or probation officer, or a social
21 worker or probation officer on the staff of the agency in the state
22 in which the child has been placed, shall visit the child in a foster
23 family home or the home of a relative, consistent with federal law
24 and in accordance with the department's approved state plan. For
25 children in out-of-state group home facilities, visits shall be
26 conducted at least monthly, pursuant to Section 16516.5. At least
27 once every six months, at the time of a regularly scheduled
28 placement agency contact with the foster child, the child's social
29 worker or probation officer shall inform the child of his or her
30 rights as a foster child, as specified in Section 16001.9. The social
31 worker or probation officer shall provide the information to the
32 child in a manner appropriate to the age or developmental level of
33 the child.

34 (5) (A) When out-of-home services are used, the frequency of
35 contact between the natural parents or legal guardians and the child
36 shall be specified in the case plan. The frequency of those contacts
37 shall reflect overall case goals, and consider other principles
38 outlined in this section.

39 (B) Information regarding any court-ordered visitation between
40 the child and the natural parents or legal guardians, and the terms

1 and conditions needed to facilitate the visits while protecting the
2 safety of the child, shall be provided to the child's out-of-home
3 caregiver as soon as possible after the court order is made.

4 (6) When out-of-home placement is made, the case plan shall
5 include provisions for the development and maintenance of sibling
6 relationships as specified in subdivisions (b), (c), and (d) of Section
7 16002. If appropriate, when siblings who are dependents of the
8 juvenile court are not placed together, the social worker for each
9 child, if different, shall communicate with each of the other social
10 workers and ensure that the child's siblings are informed of
11 significant life events that occur within their extended family.
12 Unless it has been determined that it is inappropriate in a particular
13 case to keep siblings informed of significant life events that occur
14 within the extended family, the social worker shall determine the
15 appropriate means and setting for disclosure of this information
16 to the child commensurate with the child's age and emotional
17 well-being. These significant life events shall include, but shall
18 not be limited to, the following:

19 (A) The death of an immediate relative.

20 (B) The birth of a sibling.

21 (C) Significant changes regarding a dependent child, unless the
22 child objects to the sharing of the information with his or her
23 siblings, including changes in placement, major medical or mental
24 health diagnoses, treatments, or hospitalizations, arrests, and
25 changes in the permanent plan.

26 (7) If out-of-home placement is made in a foster family home,
27 group home, or other child care institution that is either a
28 substantial distance from the home of the child's parent or out of
29 state, the case plan shall specify the reasons why that placement
30 is in the best interest of the child. When an out-of-state group home
31 placement is recommended or made, the case plan shall, in
32 addition, specify compliance with Section 7911.1 of the Family
33 Code.

34 (8) Effective January 1, 2010, a case plan shall ensure the
35 educational stability of the child while in foster care and shall
36 include both of the following:

37 (A) An assurance that the placement takes into account the
38 appropriateness of the current educational setting and the proximity
39 to the school in which the child is enrolled at the time of placement.

(B) An assurance that the placement agency has coordinated with the person holding the right to make educational decisions for the child and appropriate local educational agencies to ensure that the child remains in the school in which the child is enrolled at the time of placement or, if remaining in that school is not in the best interests of the child, assurances by the placement agency and the local educational agency to provide immediate and appropriate enrollment in a new school and to provide all of the child's educational records to the new school.

(9) (A) If out-of-home services are used, or if parental rights have been terminated and the case plan is placement for adoption, the case plan shall include a recommendation regarding the appropriateness of unsupervised visitation between the child and any of the child's siblings. This recommendation shall include a statement regarding the child's and the siblings' willingness to participate in unsupervised visitation. If the case plan includes a recommendation for unsupervised sibling visitation, the plan shall also note that information necessary to accomplish this visitation has been provided to the child or to the child's siblings.

(B) Information regarding the schedule and frequency of the visits between the child and siblings, as well as any court-ordered terms and conditions needed to facilitate the visits while protecting the safety of the child, shall be provided to the child's out-of-home caregiver as soon as possible after the court order is made.

(10) If out-of-home services are used and the goal is reunification, the case plan shall describe the services to be provided to assist in reunification and the services to be provided concurrently to achieve legal permanency if efforts to reunify fail. The plan shall also consider in-state and out-of-state placements, the importance of developing and maintaining sibling relationships pursuant to Section 16002, and the desire and willingness of the caregiver to provide legal permanency for the child if reunification is unsuccessful.

(11) If out-of-home services are used, the child has been in care for at least 12 months, and the goal is not adoptive placement, the case plan shall include documentation of the compelling reason or reasons why termination of parental rights is not in the child's best interest. ~~Only if child-centered specialized permanency services have been offered and made available shall a~~ determination completed or updated within the past 12 months by

1 the department when it is acting as an adoption agency or by a
2 ~~licensed county~~ adoption agency that it is unlikely ~~that~~ the child
3 will be ~~adopted~~, or *adopted be deemed a compelling reason. A*
4 *determination* that one of the conditions described in paragraph
5 (1) of subdivision (c) of Section 366.26 applies, shall *also* be
6 deemed a compelling reason.

7 (12) (A) Parents and legal guardians shall have an opportunity
8 to review the case plan, and to sign it whenever possible, and then
9 shall receive a copy of the plan. In a voluntary service or placement
10 agreement, the parents or legal guardians shall be required to
11 review and sign the case plan. Whenever possible, parents and
12 legal guardians shall participate in the development of the case
13 plan. Commencing January 1, 2012, for nonminor dependents, as
14 defined in subdivision (v) of Section 11400, who are receiving
15 AFDC-FC or CalWORKs assistance up to 21 years of age pursuant
16 to Section 11403, the transitional independent living case plan, as
17 set forth in subdivision (y) of Section 11400, shall be developed
18 with, and signed by, the nonminor.

19 (B) Parents and legal guardians shall be advised that, pursuant
20 to Section 1228.1 of the Evidence Code, neither their signature on
21 the child welfare services case plan nor their acceptance of any
22 services prescribed in the child welfare services case plan shall
23 constitute an admission of guilt or be used as evidence against the
24 parent or legal guardian in a court of law. However, they shall also
25 be advised that the parent's or guardian's failure to cooperate,
26 except for good cause, in the provision of services specified in the
27 child welfare services case plan may be used in any hearing held
28 pursuant to Section 366.21, 366.22, or 366.25 as evidence.

29 (13) A child shall be given a meaningful opportunity to
30 participate in the development of the case plan and state his or her
31 preference for foster care placement. A child who is 12 years of
32 age or older and in a permanent placement shall also be given the
33 opportunity to review the case plan, sign the case plan, and receive
34 a copy of the case plan.

35 (14) The case plan shall be included in the court report and shall
36 be considered by the court at the initial hearing and each review
37 hearing. Modifications to the case plan made during the period
38 between review hearings need not be approved by the court if the
39 casework supervisor for that case determines that the modifications
40 further the goals of the plan. If out-of-home services are used with

the goal of family reunification, the case plan shall consider and describe the application of subdivision (b) of Section 11203.

(15) If the case plan has as its goal for the child a permanent plan of adoption or placement in another permanent home, it shall include a statement of the child's wishes regarding ~~their~~ *his or her* permanent placement plan and an assessment of those stated wishes. The agency shall also include documentation of the steps the agency is taking to find an adoptive family or other permanent living arrangements for the child; to place the child with an adoptive family, an appropriate and willing relative, a legal guardian, *or, in the case of a child 16 years of age or older who is receiving specialized permanency services,* in another planned permanent living arrangement; and to finalize the adoption or legal guardianship. ~~At a minimum, the documentation shall include child-specific recruitment efforts, such as the use of state, regional, and national adoption exchanges, including electronic exchange systems, when the child has been freed for adoption.~~ If the plan is for kinship guardianship, the case plan shall document how the child meets the kinship guardianship eligibility requirements.

(16) *In the case of a child for whom another planned permanent living arrangement is the permanent plan, the case plan shall document all of the following:*

(A) *The intensive, ongoing, and unsuccessful efforts made by the agency to return the child home or secure a placement for the child with a fit and willing relative, a legal guardian, or an adoptive parent, including through the utilization of child-centered specialized permanency services, as defined in Section 11400.*

(B) *The efforts made by the agency to identify relatives or nonrelative extended family members through using technology, reviewing the child's case file for information regarding relatives or nonrelative extended family members, and using other tools, including, but not limited to, genograms, family trees, and family mapping.*

(C) *The efforts made by the agency to engage relatives or nonrelative extended family members by facilitating a meeting with the child or nonminor dependent, relatives, nonrelative extended family members, and other appropriate persons.*

~~(16)~~

(17) (A) When appropriate, for a child who is ~~16~~ *14* years of age or older and, commencing January 1, 2012, for a nonminor

1 dependent, the case plan shall include the transitional independent
2 living plan (TILP), a written description of the programs and
3 services that will help the child, consistent with the child's best
4 interests, to prepare for the transition from foster care to
5 ~~independent living~~, *successful adulthood*, and, in addition, whether
6 the youth has an in-progress application pending for Title XVI
7 Supplemental Security Income benefits or for Special Immigrant
8 Juvenile Status or other applicable application for legal residency
9 and an active dependency case is required for that application.
10 When appropriate, for a nonminor dependent, the transitional
11 independent living case plan, as described in subdivision (v) of
12 Section 11400, shall include the TILP, a written description of the
13 programs and services that will help the nonminor dependent,
14 consistent with his or her best interests, to prepare for transition
15 from foster care and assist the youth in meeting the eligibility
16 criteria set forth in paragraphs (1) to (5), inclusive, of subdivision
17 (b) Section 11403. If applicable, the case plan shall describe the
18 individualized supervision provided in the supervised independent
19 living placement as defined in subdivision (w) of Section 11400.
20 The case plan shall be developed with the child or nonminor
21 dependent and individuals identified as important to the child or
22 nonminor dependent, and shall include steps the agency is taking
23 to ensure that the child or nonminor dependent achieves
24 permanence, including maintaining or obtaining permanent
25 connections to caring and committed adults.

26 (B) During the 90-day period prior to the participant attaining
27 18 years of age or older as the state may elect under Section
28 475(8)(B)(iii) of the federal Social Security Act (42 U.S.C. Sec.
29 675(8)(B)(iii)), whether during that period foster care maintenance
30 payments are being made on the child's behalf or the child is
31 receiving benefits or services under Section 477 of the federal
32 Social Security Act (42 U.S.C. Sec. 677), a caseworker or other
33 appropriate agency staff or probation officer and other
34 representatives of the participant, as appropriate, shall provide the
35 youth or nonminor with assistance and support in developing the
36 written 90-day transition plan, that is personalized at the direction
37 of the child, information as detailed as the participant elects that
38 shall include, but not be limited to, options regarding housing,
39 health insurance, education, local opportunities for mentors and
40 continuing support services, and workforce supports and

1 employment services, a power of attorney for health care, and
2 information regarding the advance health care directive form.

3 (C) For youth ~~16~~ 14 years of age or older, the case plan shall
4 include documentation that a consumer credit report was requested
5 annually from each of the three major credit reporting agencies at
6 no charge to the youth and that any results were provided to the
7 youth. For nonminor dependents, the case plan shall include
8 documentation that the county assisted the nonminor dependent
9 in obtaining his or her reports. The case plan shall include
10 documentation of barriers, if any, to obtaining the credit reports.
11 If the consumer credit report reveals any accounts, the case plan
12 shall detail how the county ensured the youth received assistance
13 with interpreting the credit report and resolving any inaccuracies,
14 including any referrals made for the assistance.

15 (g) If the court finds, after considering the case plan, that
16 unsupervised sibling visitation is appropriate and has been
17 consented to, the court shall order that the child or the child's
18 siblings, the child's current caregiver, and the child's prospective
19 adoptive parents, if applicable, be provided with information
20 necessary to accomplish this visitation. This section does not
21 require or prohibit the social worker's facilitation, transportation,
22 or supervision of visits between the child and his or her siblings.

23 (h) The case plan documentation on sibling placements required
24 under this section shall not require modification of existing case
25 plan forms until the Child Welfare Services Case Management
26 System is implemented on a statewide basis.

27 (i) When a child is 10 years of age or older and has been in
28 out-of-home placement for six months or longer, the case plan
29 shall include an identification of individuals, other than the child's
30 siblings, who are important to the child and actions necessary to
31 maintain the child's relationship with those individuals, provided
32 that those relationships are in the best interest of the child. The
33 social worker or probation officer shall ask every child who is 10
34 years of age or older and who has been in out-of-home placement
35 for six months or longer to identify individuals other than the
36 child's siblings who are important to the child, and may ask any
37 other child to provide that information, as appropriate. The social
38 worker or probation officer shall make efforts to identify other
39 individuals who are important to the child, consistent with the
40 child's best interests.

1 (j) The child's caregiver shall be provided a copy of a plan
2 outlining the child's needs and services. The nonminor dependent's
3 caregiver shall be provided with a copy of the nonminor's TILP.

4 (k) On or before June 30, 2008, the department, in consultation
5 with the County Welfare Directors Association of California and
6 other advocates, shall develop a comprehensive plan to ensure that
7 90 percent of foster children are visited by their caseworkers on a
8 monthly basis by October 1, 2011, and that the majority of the
9 visits occur in the residence of the child. The plan shall include
10 any data reporting requirements necessary to comply with the
11 provisions of the federal Child and Family Services Improvement
12 Act of 2006 (Public Law 109-288).

13 (l) The implementation and operation of the amendments to
14 subdivision (i) enacted at the 2005-06 Regular Session shall be
15 subject to appropriation through the budget process and by phase,
16 as provided in Section 366.35.

17 *SEC. 21. Except as required by Section 36 of Article XIII of*
18 *the California Constitution, no reimbursement is required by this*
19 *act pursuant to Section 6 of Article XIII B of the California*
20 *Constitution for certain costs because, in that regard, this act*
21 *implements a federal law or regulation and results in costs*
22 *mandated by the federal government, within the meaning of Section*
23 *17556 of the Government Code.*

24 *With regard to other costs, to the extent that this act has an*
25 *overall effect of increasing the costs already borne by a local*
26 *agency for programs or levels of service mandated by the 2011*
27 *Realignment Legislation within the meaning of Section 36 of Article*
28 *XIII of the California Constitution, it shall apply to local agencies*
29 *only to the extent that the state provides annual funding for the*
30 *cost increase. Any new program or higher level of service provided*
31 *by a local agency pursuant to this act above the level for which*
32 *funding has been provided shall not require a subvention of funds*
33 *by the state nor otherwise be subject to Section 6 of Article XIII B*
34 *of the California Constitution.*

35 ~~SECTION 1. Section 202 of the Welfare and Institutions Code~~
36 ~~is amended to read:~~

37 ~~202. (a) The purpose of this chapter is to provide for the~~
38 ~~protection and safety of the public and each minor under the~~
39 ~~jurisdiction of the juvenile court and to preserve and strengthen~~
40 ~~the minor's family ties whenever possible, removing the minor~~

1 from the custody of his or her parents only when necessary for his
2 or her welfare or for the safety and protection of the public. If
3 removal of a minor is determined by the juvenile court to be
4 necessary, reunification of the minor with his or her family shall
5 be a primary objective. If the minor is removed from his or her
6 own family, it is the purpose of this chapter to secure for the minor
7 custody, care, and discipline as nearly as possible equivalent to
8 that which should have been given by his or her parents. This
9 chapter shall be liberally construed to carry out these purposes.

10 (b) Minors under the jurisdiction of the juvenile court who are
11 in need of protective services shall receive care, treatment, and
12 guidance consistent with their best interests and the best interests
13 of the public. Minors under the jurisdiction of the juvenile court
14 as a consequence of delinquent conduct shall, in conformity with
15 the interests of public safety and protection, receive care, treatment,
16 and guidance that is consistent with their best interests, that holds
17 them accountable for their behavior, and that is appropriate for
18 their circumstances. This guidance may include punishment that
19 is consistent with the rehabilitative objectives of this chapter. If a
20 minor has been removed from the custody of his or her parents,
21 family preservation and family reunification are appropriate goals
22 for the juvenile court to consider when determining the disposition
23 of a minor under the jurisdiction of the juvenile court as a
24 consequence of delinquent conduct when those goals are consistent
25 with his or her best interests and the best interests of the public.
26 When the minor is no longer a ward of the juvenile court, the
27 guidance he or she received should enable him or her to be a
28 law-abiding and productive member of his or her family and the
29 community.

30 (c) It is also the purpose of this chapter to reaffirm that the duty
31 of a parent to support and maintain a minor child continues, subject
32 to the financial ability of the parent to pay, during any period in
33 which the minor may be declared a ward of the court and removed
34 from the custody of the parent.

35 (d) Juvenile courts and other public agencies charged with
36 enforcing, interpreting, and administering the juvenile court law
37 shall consider the safety and protection of the public, the
38 importance of redressing injuries to victims, and the best interests
39 of the minor in all deliberations pursuant to this chapter.
40 Participants in the juvenile justice system shall hold themselves

1 accountable for its results. They shall act in conformity with a
2 comprehensive set of objectives established to improve system
3 performance in a vigorous and ongoing manner. In working to
4 improve system performance, the presiding judge of the juvenile
5 court and other juvenile court judges designated by the presiding
6 judge of the juvenile court shall take into consideration the
7 recommendations contained in subdivision (e) of Standard 5.40
8 of Title 5 of the California Standards of Judicial Administration;
9 contained in the California Rules of Court.

10 (e) As used in this chapter, “punishment” means the imposition
11 of sanctions. It does not include retribution and shall not include
12 a court order to place a child in foster care as described in Section
13 727.3. Permissible sanctions may include any of the following:

- 14 (1) Payment of a fine by the minor.
 - 15 (2) Rendering of compulsory service without compensation
16 performed for the benefit of the community by the minor.
 - 17 (3) Limitations on the minor’s liberty imposed as a condition
18 of probation or parole.
 - 19 (4) Commitment of the minor to a local detention or treatment
20 facility, including a juvenile hall, camp, or ranch.
 - 21 (5) Commitment of the minor to the Division of Juvenile
22 Facilities, Department of Corrections and Rehabilitation.
- 23 (f) In addition to the actions authorized by subdivision (e), the
24 juvenile court may, as appropriate, direct the offender to complete
25 a victim impact class, participate in victim offender conferencing
26 subject to the victim’s consent, pay restitution to the victim or
27 victims, and make a contribution to the victim restitution fund after
28 all victim restitution orders and fines have been satisfied, in order
29 to hold the offender accountable or restore the victim or
30 community.